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GENERAL RULES
OF THE
BANKRUPTCY ACT

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THE
BANKRUPTCY RULES, 1883

AND THE
GENERAL RULES
AS TO
ADMINISTRATION ORDERS

FORMS, SCALE OF COSTS, FEES, AND PERCENTAGES

Orders of the Lord Chancellor and Mr. Justice Cave

AND
A SELECTION FROM THE
BOARD OF TRADE ORDERS AND FORMS

WITH
INTRODUCTIONS, NOTES, AND AN INDEX

BY
W. A. HOLDSWORTH, Esq.

OF GRAY'S INN, BARRISTER-AT-LAW

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1884



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THE BANKRUPTCY ACT, 1883.

THE AGRICULTURAL HOLDINGS (ENGLAND)

ACT, 1883, AND THE GROUND GAME ACT, 1880.

THE BANKRUPTCY RULES, 1883.

P R E F A C E.

—o—

THE present work contains the Bankruptcy rules made pursuant to section 127 of the Bankruptcy Act, 1883; the general rules as to Administration orders under section 122 of the same act; the forms annexed to both sets of rules; the orders of the Lord Chancellor and Mr. Justice Cave, dated the 1st and 7th January, 1884, and such of the Board of Trade orders and forms as affect or are likely to be useful to debtors, creditors, trustees, or professional men in proceedings under the Bankruptcy Act of 1883. To the Bankruptcy rules we have appended notes, containing, as we hope, a complete system of cross-references to the clauses of the act, to other rules, and to the forms which bear upon, or are useful in connection with, any matter of procedure. To the rules as to Administration orders we have prefixed an introduction, in which we have discussed, and endeavoured to give a clear view of, this new branch, in reality if not in name, of Bankruptcy practice. We have added to the whole an index, which will, we trust, facilitate the perusal of, or reference to, the necessarily rather miscellaneous contents of the volume.

3, TANFIELD COURT,
March, 1884.

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BANKRUPTCY RULES.

INTRODUCTION TO THE BANKRUPTCY RULES, 1883.

—o—

THE general bankruptcy rules made pursuant to section 127 of the "Bankruptcy Act, 1883," are 271 in number. Of these 270 were included in the first issue of the rules, dated December 1, 1883; while one was issued subsequently under date of December 31st, 1883. This statement does not, however, do entire justice to the dimensions of what may be described as the code of bankruptcy procedure. Rule 270 incorporates with itself the rules under the "Debtors Act, 1869," which are included in Order xix. of the county court rules. These rules as amended by the order of the 21st January, 1884, are twenty-seven in number, so that using round figures the bankruptcy rules under the new act number close upon 300. Of these four rules are described as preliminary, while the remainder are divided into five parts. Part I. relates to Court procedure, and is distributed into several divisions, most of which embrace several rules. The titles of these divisions, and the numbers of the rules they

embrace, are:—Court and chambers, rules, 5–7 (both numbers inclusive); Proceedings, rules, 8–15; Transfer of Proceedings, rules, 16–18; Motions and Practice, rules, 19–29; Security in court, 30–38; Affidavits, 39–50; Stamps, 51, 52; Witnesses and depositions, 53–63; Discovery, 64; Taking accounts of property mortgaged, 65–69; Discovery of debtor's property, 70; Appropriation of pay, salary, pensions, &c., 71–74; Warrants, arrests, and commitments, 75–78; Service and execution of process, 79–83; trial by jury, 84–87; Sittings of county court, 88, 89; Rules relating to the business of the High Court, 90–97; costs, 98–110; and Appendix, 111–116. Part II. embraces the whole of the procedure (other than court procedure) from the act of bankruptcy to the discharge of the bankrupt. The titles of the different divisions under which it is distributed are—Declaration of inability to pay debts, rule, 117; Bankruptcy notice, rules, 118–124; Bankruptcy petition, 125–128; Creditors' petition, 129–143; Service of creditors' petition, 144–148; Hearing of petition, 149; Receiving order, 150–154; Adjudication, 155–158; Composition or scheme under ss. 18 or 23, 159–167; Statement of affairs, 168; Proof of debts, 169–174; Dividends, 175–177; Discharge, 178–182; Proxies and voting letters, 183; Meetings of creditors, 184–190; Proceedings by company or co-partnership, 191; Proceedings by or against firm, 192–197. Part III. is devoted to special proceedings under two heads—Small bankruptcies, rules, 198, 199, and the administration of persons dying insolvent, rules, 200–202. Part IV. is occupied with the rules relating to officers, trustees, audit, &c., ranged under the following divisions:—Gazetting rule, 203; Books

to be kept and returns to be made by registrars, rules, 204-206; accounts and audit, 207-217; Trustees, 218-231; Disclaimer of lease, 232; Official receivers, 233-250; Payments into and out of bank, 251, 252; Security by trustee or special manager, 253; Remuneration of special manager, 254; and Unclaimed funds, &c., under s. 162, 255, 256. Part V., which is entitled Miscellaneous, consists of two divisions, rules 257-264 being occupied with various matters, while the rules under sec. 5 of the "Debtors' Act, 1869," and s. 103 of the "Bankruptcy Act" are numbered from 265 to 270. Then there is the additional rule we have already mentioned relating to the adjournment of any matter or application from a registrar to the judge.

GENERAL RULES

MADE

PURSUANT TO SECTION 127 OF THE BANKRUPTCY ACT, 1883.

—0

It is ordered as follows :—

PRELIMINARY.

1. *Short title and commencement.*—These Rules may be cited as “The Bankruptcy Rules, 1883,” and shall come into operation from and immediately after the thirty-first day of December, 1883.

2. *Interpretation of terms.*—In these Rules, unless the context or subject matter otherwise requires,—

(a.) “The Act” means the Bankruptcy Act, 1883.
“The Court,” includes a registrar when exercising the powers of the court pursuant to the Act or these Rules.

As to the meaning of “the Court” see s. 92 ; rule 6* *post*, and the order of Mr. Justice Cave dated January 1st, 1884 *post* p. 100.

“Creditor” includes a corporation and a firm of creditors in partnership.

“Debtor” includes a firm of debtors in partnership, and includes any debtor proceeded against under the Act, whether adjudged bankrupt or not.

* Our references to Rules in these notes are, unless it is otherwise stated, to the Bankruptcy rules under sec. 127 of the Bankruptcy Act, 1883. Our references to clauses or sections, unless otherwise specified, are, of course, to the clauses or sections of the same act.

"Name" of a person means both the christian name, or the initial letter or contraction of the christian name, and the surname of such person.

"Registrar" means a registrar or deputy registrar of a County Court having jurisdiction in bankruptcy, or, as the case may be, a registrar in bankruptcy of the High Court.

"Scheme" means a scheme of arrangement pursuant to the Act.

"Sealed" means sealed with the seal of the Court.

"Trustee" includes an official receiver when acting as trustee.

For the cases in which an official receiver is to act or may act a trustee, see clauses 21, 54, 70, 82, 121, and 125.

"Writing" includes print, and "written" includes printed.

(b.) Words importing the plural number include the singular, and words importing the singular number include the plural, and words importing the masculine gender include the feminine.

(c.) The provisions of section 168 of the Act shall apply to these rules, and any other terms or expressions defined by the Act shall have the meanings thereby assigned to them.

3.—*Computation of time.*—(1.) The provisions of section 141 of the Act shall apply to these rules.

(2.) Where by the Act or these Rules the time limited for doing any act or thing is less than six days Sunday, Christmas day, Good Friday, Monday and Tuesday in Easter week, and any other day on which the offices of the Court are wholly closed, shall be excluded in computing such time.

(3.) For the purposes of these Rules and of section 141 of the Act "a day on which the Court does not sit" shall mean a day on which the offices of the Court are closed.

See as to the computation of time s. 141.

FORMS.

4.—*Use of forms in Appendix.*—(1.) The forms in the Appendix, where applicable, and where they are not applicable forms of the like character, with such variations as circumstances may require, shall be used. Where such forms are applicable any costs occasioned by the use of any other or more prolix forms shall be borne by or disallowed to the party using the same, unless the Court shall otherwise direct.

Under s. 168, “general rules” includes forms.

(2.) Provided that the Board of Trade may from time to time alter any forms which relate to matters of an administrative, and not of a judicial, character, or substitute new forms in lieu thereof.

Where the Board of Trade alters any form or substitutes any new form in lieu of a form prescribed by these Rules, such altered or substituted form shall be published in the “London Gazette.”

PART I.—COURT PROCEDURE.

COURT AND CHAMBERS.

5. *Matters to be heard in Court.*—The following matters and applications shall be heard and determined in open court, namely :—

- (a.) The public examination of debtors;
- (b.) Applications to approve a composition or scheme of arrangement;
- (c.) Applications for orders of discharge or certificates of removal of disqualifications;
- (d.) Appeals from the Board of Trade to the High Court;
- (e.) Applications to set aside or avoid any settle-

ment, conveyance, transfer, security, or payment, or to declare for or against the title of the trustee to any property adversely claimed;

- (f.) Applications for the committal of any person to prison for contempt;
- (g.) Appeals against the rejection of a proof, or applications to expunge or reduce a proof, where the amount of the proof exceeds £200.
- (h.) Applications for the trial of issues of fact with a jury, and the trial of such issues.

Any other matter or application may be heard and determined in chambers.

See s. 98.

6. *Jurisdiction of registrars.*—A Registrar may, under the general or special directions of the Judge, hear and determine any matter or application mentioned in subsection (2) of section 99 of the Act.

See s. 99; the rule dated December 31st, 1883, *post* p. 100; and the order of Mr. Justice Cave dated January 1st 1883. Under rule 243, *post* p. 88, in any case of sudden emergency, when there is no official receiver capable of acting, any act or thing required or authorised to be done by an official receiver may be done by the registrar.

7. *Adjournment from chambers to court and vice versa.*
—Subject to the provisions of the Act and these Rules, any matter or application may, at any time, if the Judge (or, as the case may be, the Registrar) thinks fit, be adjourned from chambers to court or from court to chambers; and if all the contending parties require any matter or application to be adjourned from chambers into court it shall be so adjourned.

PROCEEDINGS.

8.—*Proceedings how intitled.*—(1.) Every proceeding in court under the Act shall be dated, and shall be

intituled "In Bankruptcy," and with the name of the Court in which it is taken, and of the matter to which it relates. Numbers and dates may be denoted by figures.

See s. 94 (5).

(2.) All applications and orders shall be intituled *ex parte* the applicant.

(3.) The first proceeding in every matter shall have a distinctive number assigned to it by the Registrar, and all subsequent proceedings in the same matter shall bear the same number.

(4.) When a matter is transferred from one Court to another it shall receive a new distinctive number.

(5.) The Forms Nos. 1 and 2 in the Appendix shall be used with such variations or additions as circumstances may require.

See these forms, *post* p. 105.

9. *Written or printed proceedings.*—All proceedings in the Court shall be written or printed, or partly written and partly printed, on paper of the size hitherto used in bankruptcy, that is to say, on sheets of sixteen inches in length and ten inches in breadth, or thereabouts; but no objection shall be allowed to any proof, affidavit, or proxy on account of its being written or printed on other sized paper

10. *Records of the Court.*—All proceedings of the Court shall remain of record in the Court, so as to form a complete record of each matter, and they shall not be removed for any purpose, except for the use of the officers of the Court or by special direction of the Judge or Registrar, but they may at all reasonable times be inspected by the trustee, the debtor, and any creditor who has proved, or any person on their behalf.

The fee for inspection, under table A, *post* p. 175, is one shilling; payable in stamps.

11. *Notices to be in writing.*—All notices required by the Act or these Rules shall be in writing, unless these

Rules otherwise provide or the Court shall in any particular case otherwise order.

12. *Process to be sealed.*—All summonses, petitions, notices, orders, warrants, and other process issued by the Court shall be sealed.

See s. 137 as to the seal of the Court. Rule 2 provides that "sealed" means sealed with the seal of the court.

13. *Meetings summoned by Court.*—Where the Court orders a general meeting of creditors to be summoned under Rule 5 of Schedule I. to the Act, it shall be summoned as the Court directs, and in default of any direction the Registrar shall transmit a sealed copy of the order to the trustee (or, as the case may be, the official receiver) and the trustee or official receiver shall, not less than seven days before such meeting, send a copy of the order to each creditor at the address given in his proof, or when he shall not have proved, the address given in the list of creditors by the debtor, or such other address as may be known to the trustee or official receiver.

For the form of the order referred to in this clause, see Form No. 61, *post* p. 134.

14. *Office copies.*—All office copies of petitions, proceedings, affidavits, books, papers, and writings, or any parts thereof required by any trustee, or by any debtor, or by any creditor or by the solicitor of any such person, shall be provided by the Registrar, and shall, except as to figures, be fairly written at length, and be sealed and delivered out without any unnecessary delay, and in the order in which they shall have been bespoken.

By table A, p. 175, office copies are charged at the rate of 4d. per folio of 72 words.

15. *Filing, gazetting, &c.*—(1.) The Registrar of each Court shall file a copy of each issue of the "London Gazette," and whenever the Gazette contains any *advertisement relating to any matter under the Act in his Court, he shall at the same time file with the pro-*

ceedings in the matter a memorandum referring to and giving the date of such advertisement.

(2.) In the case of an advertisement in a local paper, the Registrar shall in like manner file a copy of the paper and a memorandum (which may be in the Form No. 128 in the Appendix) referring to and giving the date of such advertisement.

(3.) For this purpose one copy of each local paper, in which any advertisement relating to any matter under the Act in such Court is inserted, shall be left with the Registrar by the person inserting the advertisement.

(4.) The memorandum by the Registrar shall be *prima facie* evidence that the advertisement in question was duly inserted in the issue of the Gazette or paper to which the memorandum refers.

Rule 203 requires that all notices requiring publication in the *London Gazette* shall be gazetted by the Board of Trade. For the form of Bankruptcy notices for the *London Gazette*, see Form No. 127, *post* p. 163. Clause 132 of the Act, provides that a copy of the *London Gazette* containing any notice inserted therein in pursuance of this act shall be evidence of the facts stated in the notice.

TRANSFER OF PROCEEDINGS.

16. *Notice to creditors.*—Where the Judge of a County Court or the Judge or a Registrar of the High Court certifies that in his opinion a bankruptcy proceeding would be more advantageously conducted in some other Court, the Registrar shall, if the opinion is certified before the first meeting of creditors, transmit the certificate to the official receiver, who shall lay the same before such meeting, and if it has been certified after such meeting, he shall transmit a copy of such certified opinion to the trustee, if there be one, and if not to the official receiver, who shall thereupon summon a meeting of creditors to consider the same.

The form of the certificate referred to in this rule, is No. 22, *post* p. 116. And see Form No. 23 for the form of the order of transfer.

17. *Transfer*.—If within seven days after the first meeting, or, in any other case, within fourteen days after transmitting such notice to the official receiver or trustee, no resolution of the creditors objecting to such transfer shall be received by the Court through the Registrar, the transfer may be made accordingly; but if the creditors have so objected, the transfer shall not be made.

18. *Transmission of records*.—Where the proceedings in any bankruptcy matter are transferred from the Court to which the petition was presented to any other Court, the Registrar of the first Court shall send by post all the proceedings to the Registrar of the Court to which the proceedings are transferred; and the receipt of such proceedings shall be considered to authorise the latter Court to continue such proceedings, without any further order for transferring them than is contained in the proceedings.

See clause 97 as to the transfer of proceedings from Court to Court. And see also rule 268, *post* p. 95. By rule 8 (4) when a matter is transferred from one court to another, it shall receive a new distinctive number.

MOTIONS AND PRACTICE.

19. *Applications to be by motion*.—Every application to the Court (unless otherwise provided by these Rules, or the Court shall in any particular case otherwise permit) shall be made by motion supported by affidavit.

By rule 155, *post* p. 63, the Court may on the application of the debtor himself adjudge him bankrupt; and this application may be made orally and without notice. And by rule 245, *post* p. 89, applications by the official receiver to the court may be made personally and without notice or other formality. The court fee on every application to the court except by the official receiver is, by table A, 5s., see *post* p. 175.

20. *Notice of motion and ex parte applications*.—Where any party other than the applicant is affected by the motion, no order shall be made unless upon the

consent of such party duly shown to the Court or upon proof that notice of the intended motion and a copy of the affidavits in support thereof have been duly served upon such party: Provided that the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail serious mischief, may make any order *ex parte* upon such terms as to costs and otherwise, and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside.

21. *Length of notice.*—Unless the Court gives leave to the contrary, notice of motion shall be served on any party to be affected thereby not less than eight days before the day named in the notice for hearing the motion. An application for leave to serve short notice of motion shall be made *ex parte*.

As to the abridgement or extension of any time fixed by the rules, see *post* rule 261, p. 93. Sec. 105 (4) of the act gives the Court power to *extend* any time fixed either by the act or by the rules.

22. *Affidavits against motion.*—Where the respondent intends to use affidavits in opposition to the motion he shall deliver copies of such affidavits to the applicant not less than two days before the day appointed for the hearing.

23. *Notice not served on all proper parties.*—If on the hearing of any motion or application the Court shall be of opinion that any person to whom notice has not been given ought to have, or to have had, such notice, the Court may either dismiss the motion or application or adjourn the hearing thereof in order that such notice may be given, upon such terms, if any, as the Court may think fit to impose.

24. *Adjournment.*—The hearing of any motion or application may from time to time be adjourned upon such terms (if any) as the Court shall think fit.

25. *Personal service.*—In cases in which personal service of any notice of motion or of any order of the Court, is required, the same shall be effected, in the case of a notice of motion, by delivering to the party

or parties to be served, and each of them, a copy of the notice of motion; and in the case of an order by delivering to the party or parties to be served, and each of them, a sealed copy of the order.

By rule 78, *post* p. 41, notice of an application to commit any person for contempt of court, must be served personally unless the Court otherwise directs.

26. *Filing affidavits on showing cause.*—Every affidavit to be used in supporting or opposing any opposed motion shall be filed with the Registrar not later than the day before the day appointed for the hearing.

But by rule 49, *post* p. 33, the court may give leave to use an affidavit although not filed in time.

27. *Indorsement on affidavits.*—The Registrar, upon any affidavit being left with him to be filed, shall indorse the same with the day of the month and year when the same was so left, and forthwith file the same with the proceedings to which the same relates, and any affidavit left with a Registrar to be filed, shall on no account be delivered out to any person, except by order of the Court.

28. *Notice of motion to be filed.*—A party intending to move shall previous to the public sitting of the Court deliver to the Registrar or clerk of the Court a copy of his notice of motion. There shall be indorsed on such copy the name of the applicant's solicitor and counsel (if any), and also (if known) the name of the respondent's solicitor and counsel (if any).

29. *Precedence of motions.*—Except in cases of emergency, or for any other cause deemed sufficient by the Court, all motions shall be made and heard in the order in which they are set down at the sitting of the Court.

It will be observed that this rule does not give motions by members of the bar any precedence over motions by solicitors. As to rights of audience in bankruptcy matters in the High Court see s. 151 of the act

SECURITY IN COURT.

30. *Security by bond.*—Except where these Rules otherwise provide, where a person is required to give security, such security shall be in the form of a bond with one or more surety or sureties to the person proposed to be secured.

This rule and those which immediately follow only refer, as indeed the cross-head sufficiently indicates, to security given during and in reference to proceedings in court. The security to be given by a trustee or special manager is provided for by rule 253, *post* p. 91. For a form of bond on stay of proceedings, &c., see Form No. 19, *post* p. 114.

31. *Amount of bond.*—The bond shall be taken in a penal sum which shall be not less than the sum in question, and probable costs, unless the opposite party consents to it being taken for a less sum.

32. *Deposit in lieu of bond.*—Where a person is required to give security he may, in lieu thereof, lodge in Court a sum equal to the sum in question in respect of which security is to be given and the probable costs of the trial of the question, together with a memorandum to be approved of by the Registrar and to be signed by such person, his solicitor, or agent, setting forth the conditions on which the money is deposited.

33. *Money lodged in court.*—The rules for the time being in force in the High Court and County Courts respectively relating to payment into and out of Court of money lodged in Court by way of security for costs shall apply to money lodged in Court under these Rules.

See the rules issued under the "Supreme Court of Judicature (Funds, &c.) Act, 1883," 46 & 47 Vict. c. 29.

34. *Guarantee Society.*—The security of a guarantee association or society approved by the court or the opposite party may be given in lieu of a bond or a deposit.

35. *Notice of sureties.*—In all cases where a person proposes to give a bond by way of security, he shall serve, by post or otherwise, on the opposite party and on the Registrar at the Court, notice of the proposed sureties, which may be in the Form No. 20 in the Appendix, and the Registrar shall forthwith give notice to both parties of the time and place at which he proposes that the bond shall be executed, and shall state in the notice that, should the proposed obligee have any valid objection to make to the sureties, or either of them, it must then be made.

The form referred to in this rule will be found *post* p. 115.

36. *Justification by sureties.*—The sureties shall make an affidavit of their sufficiency (which may be in the Form No. 21 in the Appendix), unless the opposite party shall dispense with such affidavit, and such sureties shall attend the Court to be cross-examined if required.

The form referred to in this rule will be found *post* p. 115.

37. *Execution of bond.*—The bond shall be executed and attested in the presence of the Registrar or the official receiver, or before a justice of the peace, or a solicitor.

38. *Notice of deposit.*—Where a person makes a deposit of money in lieu of giving a bond, the Registrar shall forthwith give notice to the person to whom the security is to be given of such deposit having been made.

AFFIDAVITS.

39. *Costs if irrelevant or prolix.*—The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

Clause 135 of the act prescribes the persons before whom affidavits (which by clause 168 includes statutory declarations, affirmations, and

attestations on honour) to be used in a bankruptcy court may be sworn. Rule 48, *post* p. 32, however, prohibits the swearing of an affidavit (other than a proof) before the solicitor acting for the party on whose behalf it is to be used, or the agent or partner of such solicitor. It also provides that an affidavit may be sworn in print or MS. The fee for taking an affidavit, &c. (other than a proof) is under table A, *post* p. 175, 1s. 6d., and for each exhibit, 1s.

40. *Form.*—Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule.

41. *Deponent's description.*—Every affidavit shall state the description and true place of abode of the deponent.

42. *Several deponents.*—In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both (or all) of the "above named" deponents.

43. *Scandalous matter.*—The Court may order to be struck out from any affidavit any matter which is scandalous, and may order the costs of any application to strike out such matter to be paid as between solicitor and client.

44. *Erasures, &c.*—No affidavit having in the jurat or body thereof any interlineation, alteration, or erasure shall without leave of the Court be read or made use of in any matter depending in Court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer or person taking the affidavit, nor in the case of an erasure unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are rewritten and signed or initialled in the margin of the affidavit by the officer or person taking it.

45. *Blind or illiterate persons.*—Where an affidavit is sworn by any person who appears to the person taking the affidavit to be illiterate or blind, the person taking the affidavit shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature in the presence of such person. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

46. *Formal defects.*—The Court may receive any affidavit sworn for the purpose of being used in any matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

In connection with this rule should be read rule 260, *post* p. 93, providing for the case of non-compliance with rules; s. 105 (3) of the act giving power to amend; and s. 143, under which formal defects are not to invalidate proceedings unless substantial injustice has been caused and cannot be remedied by any order of the court.

47. *Filing, office copies, &c.*—(1.) In cases in which by the present practice an original affidavit is allowed to be used, it shall before it is used be stamped with a proper filing stamp, and shall at the time when it is used be delivered to and left in court or in chambers with the proper officer, who shall send it to be filed.

(2.) An office copy of an affidavit may in all cases be used, the original affidavit having been previously filed and the copy duly authenticated with the seal of the Court.

By table A, *post* p. 175, the fee upon filing any affidavit other than a proof of debt is 2s. The present rule does not of course apply to proof of debts.

48. *Swearing of affidavit.*—(1.) No affidavit (other than a proof) shall be sufficient if sworn before the

solicitor acting for the party on whose behalf the affidavit is to be used, or before any agent of such solicitor, or before the party himself.

(2.) Any affidavit which would be insufficient if sworn before the solicitor himself shall be insufficient if sworn before his clerk or partner.

(3.) An affidavit may be sworn to either in print or in manuscript, or partly in print and partly in manuscript.

S. 135 of the act prescribes the persons before whom affidavits to be used in a bankruptcy court may be sworn.

49. *Time for filing.*—(1.) Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used, unless by leave of the Court.

(2.) Except by leave of the Court no order made *ex parte* in court founded on any affidavit shall be of any force unless the affidavit on which the application was made was actually made before the order was applied for, and produced or filed at the time of making the motion.

And as to filing affidavits to be used in supporting or opposing any opposed motion, see *ante* rules 26 and 27, p. 28.

50. *Proof of affidavits.*—The Court shall take judicial notice of the seal or signature of any person authorised by or under the Act to take affidavits or to certify to such authority.

¹ For the persons authorised to take affidavits, &c., see s. 135 of the act.

STAMPS.

51. *Cancellation of Stamp.*—Every officer of the Court who receives any document to which an adhesive stamp shall be affixed shall immediately upon the receipt of such document deface the stamp thereon by writing partly on the stamp and partly on the document the name of the debtor; and no such document shall be filed or delivered until the stamp thereon

shall have been defaced in manner aforesaid, and it shall be the duty of the party presenting or receiving such document to see that such defacement has been duly made.

52. *Application of section 144.*—For the purposes of section 144 of the Act, “bankruptcy” shall include any proceeding under the Act, whether before or after adjudication, and whether an adjudication is made or not, and “bankrupt” shall include any debtor proceeded against under the Act.

S. 144 of the act relates to the exemption of deeds, &c., from stamp duty.

WITNESSES AND DEPOSITIONS.

53. *Subpœnas.*—A subpœna for the attendance of a witness shall be issued by the Court at the instance of an official receiver, a trustee, a creditor, a debtor, or any respondent in any matter, with or without a clause requiring the production of books, deeds, papers, documents, and writings in his possession or control, and in such subpœna the name of three witnesses may be inserted.

For forms of subpœna see Forms Nos. 104 to 107, *post* p. 153. Under table A the fee upon every subpœna not exceeding three persons is 5s.

54. *Service of subpœnas.*—A sealed copy of the subpœna shall be served personally on the witness by the person at whose instance the same is issued, or by his solicitor, or by an officer of the Court, or by some person in their employ, within a reasonable time before the time of the return thereof.

55. *Proof of service.*—Service of the subpœna may, where required, be proved by affidavit.

56. *Limit of witnesses' cost.*—The Court may in any matter limit the number of witnesses to be allowed on taxation of costs, and their allowance for attendance shall in no case exceed the highest rate of the allowances mentioned in the scale of costs.

57. *Costs of witness not examined.*—The costs of witnesses, whether they have been examined or not, may, in the discretion of the Court, be allowed.

58. *Depositions, &c.*—The Court may, in any matter where it shall appear necessary for the purposes of justice, make an order for the examination upon oath before the Court or any officer of the Court, or any other person and at any place, of any witness or person, and may empower any party to any such matter to give such deposition in evidence therein on such terms (if any) as the Court may direct.

Sec. 105 (5) of the act provides that “subject to general rules, the court may in any matter take the whole or any part of the evidence either viva voce, or by interrogatories, or upon affidavit, or by commission abroad.” Sec. 136 of the act provides for the admissibility of the depositions of deceased persons.

59. *Shorthand notes, &c.*—[This rule was subsequently annulled, and in substitution for it the following rule was published in the *London Gazette* of February 5, 1884:—]

59A. Rule 59 of the Bankruptcy Rules, 1883, is hereby annulled, and the following Rule, which may be cited as Rule 59A, is substituted therefor:—

If the Court shall in any case, and at any stage in the proceedings, be of opinion that it would be desirable that a person (other than the person before whom the examination is taken) should be appointed to take down the evidence of the debtor, or of any witness examined at any public sitting or private meeting under the Act, in shorthand or otherwise, it shall be competent for the Court to make such appointment; and every person so appointed shall be paid a sum not exceeding one guinea a day, and where the Court appoints a shorthand writer a sum not exceeding eightpence per folio of ninety words for any transcript of the evidence that may be required, and such sums shall be paid by the party at whose instance the appointment was made, or out of the estate, as may be directed by the Court.

60. *Form of commission.*—An order for a commission to examine witnesses and the writ of commission shall follow the forms for the time being in use in the High Court, with such variations as circumstances may require.

See R.S.C. Or. xxxvii. 26.

61. *Production of document.*—The Court may in any matter at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court may think fit to be produced.

62. *Disobedience to order.*—Any person wilfully disobeying any order or subpoena requiring his attendance for the purpose of being examined or producing any document shall be deemed guilty of contempt of Court, and may be dealt with accordingly.

63. *Conduct money.*—Any witness (other than the debtor) required to attend for the purpose of being examined, or of producing any document, shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court.

DISCOVERY.

64. *Discovery.*—Any party to any proceeding in court may, with the leave of the Court, administer interrogatories to, or obtain discovery of documents from, any other party to such proceeding. Proceedings under this Rule shall be regulated as nearly as may be by the Rules of the Supreme Court for the time being in force in relation to discovery and inspection. An application for leave under this rule may be made *ex parte*.

See s. 27 of the act as to the "Discovery of Debtors' Property." The rules of the Supreme Court referred to in present first rule will be found in R.S.C. Order xxxi.

TAKING ACCOUNTS OF PROPERTY MORTGAGED, AND OF
THE SALE THEREOF.

65. *Inquiry into mortgage, &c.*—Upon application by motion by any person claiming to be a mortgagee of any part of the bankrupt's real or leasehold estate, and whether such mortgage shall be by deed or otherwise, and whether the same shall be of a legal or equitable nature, the Court shall proceed to inquire whether such person is such mortgagee, and for what consideration and under what circumstances; and if it shall be found that such person is such mortgagee, and if no sufficient objection shall appear to the title of such person to the sum claimed by him under such mortgage, the Court shall direct such accounts and inquiries to be taken as may be necessary for ascertaining the principal, interest, and costs due upon such mortgage and of the rents and profits, or dividends, interest, or other proceeds received by such person, or by any other person by his order or for his use in case he shall have been in possession of the property over which the mortgage shall extend, or any part thereof, and the Court, if satisfied that there ought to be a sale, shall direct notice to be given in such newspapers as it thinks fit, when and where, and by whom and in what way the said premises or property, or the interest therein so mortgaged, are to be sold, and that such sale be made accordingly, and that the trustee (unless it be otherwise ordered) shall have the conduct of such sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

Ser. 9 (2) of the act provides that the appointment of the official receiver to be receiver of the debtor's "property" shall not affect the power of a secured creditor to realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

66. *Conveyance.*—All proper parties shall join in the conveyance to the purchaser, as the Court shall direct.

67. *Proceeds of sale.*—The moneys to arise from such sale shall be applied in the first place in payment of the costs, charges, and expenses of the trustee, of and occasioned by the application to the Court, and of and attending such sale, and then in payment and satisfaction so far as the same shall extend of what shall be found due to such mortgagee, for principal, interest and costs, and the surplus of the said moneys (if any) shall then be paid to the trustee. But in case the moneys to arise from such sale shall be insufficient to pay and satisfy what shall be so found due to such mortgagee, then he shall be entitled to prove as a creditor for such deficiency, and receive dividends thereon rateably with the other creditors, but so as not to disturb any dividend then already declared.

68.—*Proceedings on inquiry.*—For the better taking of such inquiries and accounts, and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as it shall think fit, and shall produce before the Court upon oath all deeds, papers, books, and writings, in their respective custody or power relating to the estate or effects of the bankrupt, as the Court shall direct.

69. *Accounts, &c.*—In any proceedings between a mortgagor and mortgagee, or the trustee of either of them, the Court may order all such inquiries and accounts to be taken in like manner as in the Chancery Division of the High Court.

See R.S.C. Order xxxiii.

DISCOVERY OF DEBTOR'S PROPERTY.

70. *Applications for discovery.*—Every application to the Court under section 27 of the Act shall be in writing, and shall state shortly the grounds upon which the application is made; and where the application is not made on behalf of the trustee, official receiver, or Board of Trade, it shall be verified by affidavit.

APPROPRIATION OF PAY, SALARY, PENSIONS, &c.

71. *Notice of application to bankrupt.*—When a trustee intends to apply to the Court for an appropriation order under section 53 of the Act, he shall give notice of his intention to the bankrupt, and also of the time and place fixed for hearing the application, and that the bankrupt is at liberty to show cause against such order being made.

The notice shall be in the Form No. 88 in the Appendix, with such variations as circumstances may require.

Form No. 88 will be found *post* p. 145.

72. *Notice to chief of department.*—When the application is made under subsection (1) of section 53 of the Act, a copy of the proposed order shall be sent by the Registrar to the chief officer of the department under which the pay or salary is enjoyed, and the application shall stand adjourned until the written consent of such chief officer is obtained as required by the Act.

For the form of order referred to in this rule, see Form No. 89, *post* p. 145.

73. *Copy of order to department, &c.*—Where an order of Court is made under subsection (2) of section 53 of the Act, the Registrar shall give to the trustee a sealed copy of the order, who shall communicate the same to the chief of the department or other person under whom the pay, half-pay, salary, income, emolument, pension, or compensation is enjoyed, for the purpose of his counter-signature, to the order being written thereon.

For the form of order referred to in this rule, see Form No. 90, *post* p. 146.

74. *Review of order.*—Where an order has been made for the payment by a bankrupt, or by his employer, for the time being, of a portion of his income or salary,

the bankrupt may, upon his ceasing to receive a salary or income of the amount he received when the order was made, apply to the Court to rescind the order, or to reduce the amount ordered to be paid by him to the trustee.

S. 104 of the act provides that "every court having jurisdiction under this act may review, rescind, or vary any order made by it under its bankruptcy jurisdiction."

WARRANTS, ARRESTS, AND COMMITMENTS.

75. *To whom warrants addressed.*—A warrant of seizure or a search warrant or any other warrant issued under the provisions of the Act shall be addressed to such officer of the High Court, or to such high bailiff or officer of any County Court, whether such County Court has jurisdiction in bankruptcy or not, as the Court may in each case direct.

For the warrants referred to in this rule, see Forms Nos. 101 to 104, *post* pp. 151–153. The fees payable in respect of the execution of these warrants will be found in table C, *post* p. 176. See s. 51 of the act with reference to the seizure of a debtor's property, and s. 119 for the enforcement of the warrant of a court having jurisdiction in bankruptcy in England, in Scotland, Ireland, the Isle of Man, &c.

76. *Custody of debtor.*—Where a debtor is arrested under a warrant issued under section 25 of the Act, he shall be safely kept by being lodged within the prison to the keeper of which the warrant is, amongst others, addressed; and any books, papers, moneys, goods, and chattels in the possession of the debtor, which may be seized, shall forthwith be lodged with the official receiver or, as the case may be, the trustee of the property of the debtor.

The form of warrant under sec. 25 is Form No. 103, *post* p. 152. The form of order of discharge from custody in contempt is No. 121, *post* p. 159. Sec. 120 of the act empowers the court to commit to any convenient prison, and compels the gaoler to receive the prisoner so committed.

77. *Applications to commit.*—An application to the Court to commit any person for contempt of Court shall be supported by affidavit, and be filed in the Court in which the proceedings are.

The forms applicable to this rule are Forms Nos. 109 to 119, *post* pp. 154 to 158.

78. *Notice and hearing of application.*—Subject to the provision of section 102 of the Act, upon the filing of such application, the Registrar shall fix a time and place for the Court to hear the application, and shall issue a notice to be served by an officer or high bailiff of the Court personally on the person sought to be committed three days at least before the day of hearing the application, unless the Court shall, by order upon good cause shown, direct service of the notice to be made in some other manner, in which case it shall be served together with a copy of the order, in the manner so directed.

The provision of s. 102 referred to in this rule seems to be subsection 5, which gives the Court a power of immediately committing a trustee, debtor, or any other person who makes default in obeying any order or direction given by the Board of Trade, by an official receiver, or by any other officer of the Board of Trade.

SERVICE AND EXECUTION OF PROCESS.

79. *Address of solicitor for service.*—Every solicitor suing out or serving any petition, notice, summons, order, or other document, shall indorse thereon his name or firm and place of business, which shall be called his address for service, provided that in proceedings in the High Court, where his place of business is not within three miles of the Royal Courts of Justice, he shall add to his own name or firm and place of business another proper place, which shall not be more than three miles from the Royal Courts of Justice, which shall be his address for service. All notices, orders, documents, and other written communications

which do not require personal service shall be deemed to be sufficiently served on such solicitor if left for him at his address for service.

As to the effect of non-compliance with the provisions of this or other rules, see *post* rule 260, p. 93.

80. *Hours for service.*—Service of notices, orders, or other proceedings shall be effected before the hour of six in the afternoon, except on Saturdays, when it shall be effected before the hour of two in the afternoon. Service effected after six in the afternoon on any week day, except Saturday, shall for the purpose of computing any period of time subsequent to such service be deemed to have been effected on the following day. Service effected after two in the afternoon on Saturday shall for the like purpose be deemed to have been effected on the following Monday.

81. *Duties of bailiff, &c.*—It shall be the duty of the high bailiff of a County Court and, in the case of the High Court, of such officers or officer as the Court may direct, to serve such orders, summonses, petitions, and notices as the Court may require him to serve; to execute warrants and other process; to attend any sittings of the Court (except sittings in chambers); and to do and perform all such things as may be required of him by the Court.

But this rule shall not be construed to require any order, summons, petition, or notice to be served by a bailiff or officer of the Court, unless the Court shall so direct.

For the fees of the bailiffs, &c., in respect of the matters referred to in this rule, see table C, *post* p. 176.

82. *Service by post.*—Where notice of an order or other proceeding in Court may be served by post it shall be sent by registered letter.

Clause 142 of the act provides that all notices and other documents for the service of which no special mode is directed, may be sent by prepaid post letter to the last known address of the person to be served therewith. But *personal* service is required by rule 54, *ante* p. 34, in

the case of subpoenas; by rule 78, *ante* p. 41, in the case of notices of motions to commit; by rule 123, *post* p. 54, in the case of bankruptcy notices; and by rules 144 (p. 60) and 201 (p. 77) in the case of creditors' petitions.

83. *Enforcement of orders.*—Every order of the Court may be enforced as if it were a judgment of the Court to the same effect.

By s. 100 of the act, a county court has for the purposes of its bankruptcy jurisdiction, in addition to the ordinary powers of the court, all the powers and jurisdiction of the High Court, and the orders of the court may be enforced accordingly in manner prescribed. Rule 97, *post* p. 46, provides for the issue of writs of execution in the High Court.

TRIAL BY JURY.

84. *Settlement of issues.*—Where upon any application to the Court for its decision on any question, the Court, either on its own motion or on the application of any person, shall have directed that a question of fact be tried with a jury, such question of fact shall be reduced into writing and submitted to the Court for its approval, and shall, when approved, be called the record for trial; but the Court shall have power to allow any amendment thereof at any time upon such terms as it may think fit.

For form of issue for trial by jury see Form No. 124, *post* p. 161. An application for a trial by jury is one of the matters which, under rule 5, *ante* p. 21, must be dealt with by the judge in open court. As to the power of the Court to direct a trial by jury, see sec. 102 (3) of the act. The fee payable on every "record of trial" is £5, "or such less sum as the court may specially order." (By table C, *post* p. 176.)

85. *Special or common jury.*—An order of the High Court for the trial of a question of fact before a jury shall specify the place of trial, and whether it shall be before a special or a common jury, but the order may be amended by the substitution of one jury for the other, upon such terms as the Court may think fit.

86. *Mode of trial.*—The issues of fact so settled shall

be tried in a County Court according to the rules for the time being in force in relation to jury trials in County Courts, and in the High Court in the same manner as issues of fact are tried in the Queen's Bench Division. Such issues may be tried either before the Judge assigned to transact and dispose of bankruptcy business, or otherwise as the Court may direct.

See as to trials in the Queen's Bench division, R.S.C. Order xxxvi.

87. *When such issues of fact are tried in the Queen's Bench Division.*—Where such issues are ordered to be tried in the Queen's Bench Division otherwise than before the judge assigned as aforesaid, they shall be tried as if they were issues of fact sent down by a Judge of the Chancery Division for trial in the Queen's Bench Division, and the verdict or finding of the jury shall be indorsed by the proper officer on the record for trial, and returned by him to the senior bankruptcy Registrar of the High Court.

SITTINGS OF COUNTY COURT.

88. *Place.*—Subject to the orders of the Lord Chancellor, the place of sitting of each County Court having bankruptcy jurisdiction, for the purpose of such jurisdiction, shall be the town in which the Court now holds or may hereafter hold its sittings for the common law business of the Court, under the provisions of the County Courts Act, 1846, and Acts amending it.

89. *Times.*—Subject to provisions of section 92 of the Act, and until any such order as is therein mentioned be made by the Lord Chancellor, the times of the sitting of each County Court in matters of bankruptcy shall be those appointed for the transaction of the general business of the Court, unless the judge of any such Court shall otherwise order. The appointment of a special day or days for a sitting of the

Court in matters of bankruptcy shall not prevent the Court from hearing and determining any bankruptcy matter on any day appointed for the general business of the Court when it may seem expedient so to do.

The provision of sec. 92 of the act referred to in this rule is subsection 5, which provides that "periodical sittings for the transaction of bankruptcy business by county courts having jurisdiction in bankruptcy shall be holden at such times, and such intervals as the Lord Chancellor shall prescribe for each such court."

RULES RELATING TO THE BUSINESS OF THE HIGH COURT.

90. *Sittings.*—The Judge, with the approval of the Lord Chancellor, shall regulate the bankruptcy sittings and vacations of the High Court.

91. *Actions by trustees assigned to bankruptcy judge.*—When a trustee, under section 57 of the Act, brings an action in the High Court concerning any matter not specially assigned by the Supreme Court of Judicature Act, 1873, or Acts amending it or by Rules of the Supreme Court, to a Division other than that to which bankruptcy business is assigned, he shall bring his action in the Division to which bankruptcy business is assigned, and the action shall, unless the Court otherwise directs, be tried by the Judge assigned to transact and dispose of bankruptcy business.

On the other hand, by s. 102 (4), "When a receiving order has been made in the High Court under this act, the judge by whom such order was made shall have power, if he sees fit, without any further consent to order the transfer to such judge of any action pending in any other division brought or continued by or against the bankrupt."

92. *Registrars to act for each other.*—Any Registrar in bankruptcy may act for any other Registrar in any bankruptcy matter pending in the said Court.

93. *Senior Registrar's Office.*—The senior Registrar's office shall be kept open daily, throughout the year, from ten till four o'clock except on Sunday, Christmas Day, Good Friday, the Saturday after Good Friday, Monday and Tuesday in Easter week, or any day ap-

pointed for a public fast or thanksgiving, or on which the Judge may direct it to be closed, and except also on Saturdays, when the office may be closed at two o'clock. Provided that during vacations of the High Court the office shall be opened at ten and closed at two o'clock.

The vacations of the High Court are prescribed by R.S.C. Order lxiii. r. 4.

94. *What bills Masters shall tax.*—The bills to be taxed by the bankruptcy Taxing Masters shall be all bills of costs, charges, fees, and disbursements in matters under the Act (as heretofore have been taxed by the said Masters), and all other taxable bills in other matters in which the High Court may exercise bankruptcy jurisdiction, and such taxable bills as may be specially referred to them for taxation by any County Court, subject to the revision of the Court.

And see rule 104, *post* p. 48, as to the review of county court taxation.

95. *Office of Master.*—The office of the bankruptcy Taxing Masters shall be open for the transaction of business throughout the year, except on such days as the office of the senior Registrar shall be closed. The office shall be open from ten till four, except on Saturdays, when the office may be closed at two o'clock.

96. *Master's business.*—The business of the bankruptcy Taxing Masters shall be transacted by them in person.

97. *Execution on orders.*—Writs of execution shall issue from the proper department of the Central Office, and all proceedings thereon and in relation thereto shall be regulated as nearly as may be by the Rules of the Supreme Court for the time being in force in relation to execution.

See R.S.C. Order lxi.; and R.S.C. Order lxii.

COSTS.

98.—*Awarding costs.*—(1.) The Court in awarding costs may direct that the costs of any matter or application shall be taxed and paid as between party and party or as between solicitor and client, or that full costs, charges, and expenses shall be allowed, or the Court may fix a sum to be paid in lieu of taxed costs.

(2.) In the absence of any express direction costs of an opposed motion shall follow the event, and shall be taxed as between party and party.

99. *Orders to be sealed, &c.*—Every order for payment of money and costs, or either of them, shall be sealed, and be signed by a Registrar, and shall be forthwith filed with the proceedings.

By rule 83, *ante* p. 43, every order of the court may be enforced as if it were a judgment of the court to the same effect.

100. *Payment of costs.*—All costs shall be in the discretion of the Court, and shall be paid by such persons as the Court shall order.

And see s. 105 (1) of the act.

101. *Taxation.*—The costs directed by any order to be paid shall be taxed on production of an office copy of such order, and the allocatur being duly stamped shall be signed and dated by the Master or Registrar taxing the costs.

By table A, *post* p. 176, the fee payable on every allocatur by any officer of the court for any costs, charges, &c., when the amount allowed does not exceed £4, is 2s.; and when the amount exceeds £4, then for every £2 allowed or a fraction thereof, 1s.

102. *Registrar to tax in County Court.*—In a County Court, costs shall be taxed by the Registrar in person.

103. *Lower scale of costs if estate under £300.*—Where the estimated assets of the debtor do not exceed the sum of three hundred pounds a lower scale of solicitor's costs shall be allowed, namely, three-fifths of the charges ordinarily allowed, disbursements being

added, and if in error, any charges have been allowed or paid on the higher scale, and the gross proceeds of the assets shall be ascertained not to exceed three hundred pounds the excess shall be disallowed, and if paid, shall be repaid to the trustee.

See scale of costs, *post* p. 167.

104.—*Review of County Court taxation.*—(1.) The Board of Trade may require the taxation of the bills of costs, charges, fees, or disbursements of any solicitor, accountant, auctioneer, manager, or other person, where the taxation has been made by a Registrar of a County Court to be reviewed by a bankruptcy Taxing Master of the High Court, and may appear on the review of such taxation; and where any such review is directed, the Registrar of the County Court shall forward to such Master of the High Court the bill which is required to be reviewed, and such Master shall review such taxation. If upon the review the bill is allowed at a lower sum than that allowed by the Registrar of the County Court, the amount disallowed shall be repaid to the trustee.

(2.) The solicitor, accountant, auctioneer, manager, or other person whose bill is directed to be reviewed, shall have notice of the time appointed for such review, and the costs of his appearance thereat shall be allowed to him out of the estate, unless the Court otherwise orders.

Sec. 73 of the act provides for the allowance and taxation of the costs, &c., referred to in this rule. For scale of costs see *post* p. 167.

105. *Order of payment of costs incurred.*—The costs under a bankruptcy petition incurred prior to the first meeting of creditors shall be paid out of the estate in the following order of priority, unless the Court otherwise orders, that is to say, first, the *ad valorem* duty upon the assets realized; next, the actual expenses incurred in realizing any of the property or assets of the debtor; next, the fees payable to any officer of the Court in respect of any business done by him under

the Act; next, the remuneration of any special manager appointed by the official receiver; next, the taxed costs of the petitioner; and next, the charges of any person duly appointed to assist the debtor in the preparation of his statement of affairs.

By sec. 58 of the act dividends are to be payable, "subject to the retention of such sums as may be necessary for the costs of administration or otherwise."

106. *Solicitor's costs in case of petition by debtor.*—The solicitor in the matter of a bankruptcy petition presented by the debtor against himself shall, in his bill of costs, give credit for such sum or security (if any) as he may have received from the debtor, as a deposit on account of the costs and expenses to be incurred in and about the filing and prosecution of such petition; and the amount of any such deposit shall be noted by the taxing officer upon the allocatur issued for such costs.

107. *Costs out of joint or separate estates of co-debtors.*—Where the joint estate of any co-debtors is insufficient to defray any costs or charges properly incurred in respect thereof, the Court, on the application of the official receiver or trustee, may order such costs or charges to be paid out of the separate estates of such co-debtors or any one or more of them. The Court may also order any costs or charges properly incurred for any separate estate to be paid out of the joint estate if in the opinion of the Court it shall be just so to do.

See as to joint and separate estates s. 40 (3) of the act.

108. *Costs paid otherwise than out of estate.*—When a bill of costs is taxed under any special order of the Court, and it appears by such order that the costs are to be paid otherwise than out of the estate of the bankrupt, the taxing officer shall specially note upon the allocatur by whom, or the manner in which such costs are to be paid.

109. *Bills of costs to be filed.*—Upon the taxation of any bill of costs, charges, or expenses being completed,
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the taxing officer shall forthwith file such bill with the proceedings in the matter, and shall thereupon issue to the person presenting such bill for taxation, his allocatur, or certificate of taxation, which may be in Form No. 96 in the Appendix.

See form No. 96, *post* p. 148. For ad valorem fee on allocatur, see *post* p. 176.

110. *Register of Bills taxed.*—Every taxing officer shall keep a register of all bills taxed by him, according to Form No. 97 in the Appendix, and shall, within fourteen days of the 31st day of December in each year, make a return to the Board of Trade, according to Form No. 98 in the Appendix, of all bills taxed by him during the twelve months preceding such 31st day of December.

For the forms referred to in this rule, see *post* p. 149.

APPEALS.

111. *Restrictions on appeal.*—(1.) Except by leave of the Court there shall be no appeal to the Court of Appeal from any order made by consent, or as to costs only.

(2.) No appeal to the Court of Appeal shall be brought from any order relating to property when it is apparent from the proceedings that the money or money's worth involved does not exceed £50, unless by leave of the Court.

(3.) No appeal shall be brought in respect of the omission by the Court appealed from to exercise any discretionary power, unless the Court shall in its judgment, or on application made at the hearing, have expressly refused to exercise such power, in which case the refusal may be made a ground of appeal.

As to appeal or rehearing generally, see s. 104 of the act; as to appeals in small bankruptcies under sec. 121, see *post* rule 199 (5), *post* p. 76, which provides that "no appeal shall lie from any order of the court except by order of the court."

112. *Time for appeal.*—Subject to the powers of the Court of Appeal to extend the time under special circumstances, no appeal to the Court of Appeal from any order of the Court shall be brought after the expiration of twenty-one days. The said period shall be calculated from the time at which the order is signed, entered, or otherwise perfected, or, in the case of the refusal of an application, from the date of such refusal.

As to the powers of the Court of Appeal to extend the time for appeal, see R.S.C. Order lviii. As to the power of a court having bankruptcy jurisdiction to extend time, see s. 105 (4) of the act.

113. *Security for costs of appeal.*—At or before the time of entering an appeal, the party intending to appeal shall lodge in the High Court the sum of twenty pounds to satisfy, in so far as the same may extend, any costs that the appellant may be ordered to pay. Provided that the Court of Appeal may in any special case increase or diminish the amount of such security or dispense therewith.

And see rule 32, *ante* p. 29.

114. *Notice of appeal.*—Upon entering an appeal, a copy of the notice of appeal shall forthwith be sent by the appellant to the Registrar of the Court appealed from, who shall mark thereon the date when received, and forthwith file the same with the proceedings, and a similar notice shall be delivered by the appellant to each respondent four days before the day on which he intends to move.

115. *File of proceedings.*—The Registrar of the Court appealed from shall, upon the application of the senior Registrar of the High Court, transmit to him the file of proceedings in the matter under appeal.

116. *Procedure on appeals.*—Subject to the foregoing Rules appeals to the Court of Appeal shall be regulated by the Rules of the Supreme Court for the time being in force in relation to such appeals.

The rules of the Supreme court referred to will be found in R.S.C. Order lviii.

PART II.—PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

DECLARATION OF INABILITY TO PAY DEBTS.

117. *Form of declaration.*—A declaration by a debtor of his inability to pay his debts shall be dated, signed, and witnessed, and shall be in the Form No. 3 in the Appendix, with such variations, if any, as circumstances may require. The witness shall be a solicitor, or justice of the peace, or an official receiver or registrar of the Court.

For Form No. 3, see *post* p. 105. As to the act of bankruptcy committed by a declaration of the debtor's inability to pay his debts, see sec. 4 (*f*) of the act. Having regard to that section, and to rule 127, *post* p. 55, it seems clear that this declaration must be made and attested in England.

BANKRUPTCY NOTICE.

118. *What Court to issue.*—(1.) A bankruptcy notice shall be in the Form No. 6 in the Appendix, with such variations as circumstances may require.

(2.) A bankruptcy notice may be issued by any Court in which a bankruptcy petition against the debtor might be filed.

(3.) A bankruptcy notice shall not be invalid by reason that it is issued by a wrong Court, but in such case the Court may, if it think fit, on the application of the debtor, order the notice to be set aside on such terms as to costs or otherwise as may seem just.

See Form No. 6, *post* p. 107. By table A, *post* p. 175, a bankruptcy notice is subject to a 5s. stamp. As to bankruptcy notices generally, see s. 4 (8) of the act. As to where a bankruptcy petition is to be presented, see s. 95 of the act.

119. *Issue of notice.*—A creditor, desirous that a bankruptcy notice may be issued, shall produce to the Registrar an office copy of the judgment on which the notice is founded and file the notice, together with a request for issue, which shall be in Form No. 5 in the Appendix, with such variations as circumstances may require. The creditor shall at the same time lodge with the Registrar two copies of the bankruptcy notice to be sealed and issued for service.

120. *Indorsement of address, &c.*—(1.) Every bankruptcy notice shall be indorsed with the name and place of business of the solicitor actually suing out the same, or if no solicitor be employed, with a memorandum that it is sued out by the creditor in person.

(2.) There shall also be indorsed on every bankruptcy notice an intimation to the debtor that if he has a counter claim, set off, or cross demand which equals or exceeds the amount of the judgment debt, and which he could not have set up in the action in which the judgment was obtained, he must within the time specified in the notice file an affidavit to that effect with the Registrar.

(3.) In the case of a notice served in England the time shall be three days. In the case of a notice served elsewhere the Registrar, when issuing the notice, shall fix the time.

As to counter-claims, set-offs, or cross-demands which cannot be set up in an action, see R.S.C. Order xix. r. 3.

121. *Application to set aside.*—The filing of such affidavit shall operate as an application to set aside the bankruptcy notice, and thereupon the Registrar shall fix a day for hearing the application, and not less than three days before the day so fixed shall give notice thereof both to the debtor and the creditor, and their respective solicitors, if known. If the application cannot be heard until after the expiration of the time specified in the notice as the day on which the act of bankruptcy will be complete, the Registrar shall extend the time, and no act of bankruptcy shall be deemed to

have been committed under the notice until the application has been heard and determined.

For the form of affidavit referred to in this clause, see Form No. 8, *post* p. 108. As to the extension of time, see s. 105 (4) of the act.

122. *Duration of notice.*—Subject to the power of the Court to extend the time, a bankruptcy notice to be served in England shall be served within one month from the issue thereof.

123. *Service of notice.*—A bankruptcy notice shall be served, and service thereof shall be proved in the like manner as is by these Rules prescribed for the service of a creditor's petition.

See *post* rules 144 to 148, p. 60.

124. *Setting aside notice.*—When the Court makes an order setting aside the bankruptcy notice, it may at the same time declare that no act of bankruptcy has been committed by the debtor under such notice.

For forms of orders setting aside bankruptcy notice, see Form No. 9, *post* p. 108.

BANKRUPTCY PETITION.

125. *Form of petition.*—Every petition shall be fairly written or printed, or partly written and partly printed, and no alterations, interlineations, or erasures shall be made without the leave of the Registrar, except so far as may be necessary to adapt a printed form to the circumstances of the particular case. A debtor's petition shall be in Form No. 4, and a creditor's petition shall be in Form No. 10 in the Appendix, with such variations as circumstances may require.

The forms specified in this rule will be found *post* at p. 106 and p. 109. By table A, *post* p. 175, every bankruptcy petition is subject to a stamp of £5.

126. *Place for filing petition.*—Where a debtor has for the greater part of six months next preceding the presentation of a bankruptcy petition carried on busi-

ness within the district of one Court and resided within the district of another Court, the petition shall be filed in the Court within the district of which he has carried on business.

See sec. 95 of the act as to the place where a petition is to be presented.

127. *Attestation.*—Every bankruptcy petition shall be attested. If it be attested in England the witness must be a solicitor or justice of the peace or an official receiver or registrar of the Court. If it be attested out of England the witness must be a judge or magistrate or a British consul or vice-consul or a notary public.

As to the attestation of a firm signature, see rule 192, *post* p. 74.

128. *Deposit by petitioner.*—(1.) Upon the presentation of a petition either by the debtor or by a creditor the petitioner shall deposit with the official receiver the sum of five pounds, and such further sum (if any) as the Court may from time to time direct, to cover the fees and expenses to be incurred by the official receiver.

(2.) The official receiver shall account for the money so deposited to the creditor, or, as the case may be, to the debtor's estate, and any sum so paid by a petitioning creditor shall be repaid to him out of the first net proceeds of the estate.

By rule 154, *post* p. 63, the costs and expenses of a petitioning creditor may be repaid to him out of the net proceeds of the estate. And see rule 105, *ante* p. 48, as to the order of payment of costs incurred.

CREDITOR'S PETITION.

129. *Security for costs.*—A petitioning creditor who is resident abroad, or whose estate is vested in a trustee under any law relating to bankruptcy, or against whom a petition is pending under the Act, or who has made default in payment of any costs ordered by any

court to be paid by him to the debtor, may be ordered to give security for costs to the debtor.

130. *Verification and copies.*—Every creditor's petition shall be verified by affidavit, and when it is filed there shall be lodged with it two or more copies to be sealed and issued to the petitioner.

For form of petition see Form No. 10, p. 109, and for forms of appointment see Forms 12 and 13, *post* p. 111.

131. *Who to verify.*—When the petitioning creditor cannot himself verify all the statements contained in his petition he shall file in support of the petition the affidavit of some person who can depose to them.

By sec. 7 (1) of the act, a creditor's petition must be verified by affidavit of the creditor or of some person on his behalf having knowledge of the facts and must be served in the prescribed manner. By sec. 148 "for all or any of the purposes of this act (including of course the presentation of a creditor's petition), a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, and a lunatic may act by his committee or *curator bonis*. See also as to proceedings by a company or co-partnership rule 191, *post* p. 74, and to proceedings by or against a firm, rule 192, *post* p. 74.

132. *Joint petitioners.*—Where a petition is presented by two or more creditors jointly, it shall not be necessary that each creditor shall depose to the truth of all the statements which are within his own knowledge; but it shall be sufficient that each statement in the petition is deposed to by someone within whose knowledge it is.

See sec. 7 (1) and sec. 148 of the act and rules 191 and 192, at the pages mentioned in the preceding note.

133. *Petition to be investigated.*—After the presentation of a creditor's petition, and before sealing the copies of the petition for service, the statements in the petition shall be investigated by the Registrar, and where some of the statements in the petition cannot be verified by affidavit, witnesses may be summoned to prove the same.

134. *Interim receiver.*—After the presentation of a

petition, upon the application of a creditor, or of the debtor himself, and upon proof by affidavit of sufficient grounds for the appointment of the official receiver as *interim* receiver and manager of the property of the debtor, or any part thereof, the Court may, if it thinks fit, upon such terms as to deposit for expenses and otherwise as may seem just, make such appointment; and where the petition is dismissed the creditor shall, unless the Court otherwise orders, pay the costs of the official receiver as *interim* receiver and manager, and the Court shall, if required, adjudicate with respect to any damages or claim thereto arising out of his appointment, or make such order thereon as it thinks fit, and such order shall be final and conclusive between the parties, and between them or either of them and the official receiver, unless the decision be appealed from.

As to the appointment of an *interim* receiver, see s. 10 of the act. For forms of application for, and appointment of, an *interim* receiver, see Form No. 14, p. 112.

135. *Time of hearing.*—The Registrar shall appoint the time and place at which the petition will be heard, and notice thereof shall be written on the petition and sealed copies, and where the petition has not been served the Registrar may from time to time alter the first day so appointed, and appoint another day and hour.

136. *Several respondents.*—Where there are more respondents than one to a petition, the rules as to service shall be observed with respect to each respondent, but where all the respondents have not been served, the petition may be heard separately or collectively as to the respondent or such of the respondents as has or have been served, and separately or collectively as to the respondents not then served according as service upon them is effected.

See also rule 192 *et seq.*, *post* p. 74.

137. *Debtor intending to show cause.*—Where a debtor

intends to show cause against a petition he shall file a notice with the Registrar specifying the statements in the petition which he intends to deny or dispute, and transmit by post to the petitioning creditor and his solicitor, if known, a copy of the notice three days before the day on which the petition is to be heard.

For the form of notice referred to in this rule, see Form No. 17, *post* p. 113. By rule 82, *ante* p. 42, when notice of an order or other proceeding in court may be served by post, it shall be sent by registered letter. Rules 260 and 261, *post* p. 93, may be consulted as to the result of non-compliance with the terms of this, as of other rules, and as to the extension or abridgment of the time of notice.

138. *Non-appearance of debtor*.—If the debtor does not appear at the hearing, the Court may make a receiving order on such proof of the statements in the petition as it shall think sufficient.

As to the facts which the court *must* require to be proved before making a receiving order, see s. 7 (2) of the act.

139. *Appearance of debtor to show cause*.—On the appearance of the debtor to show cause against the petition, the petitioning creditor's debt, and act of bankruptcy, or such of those matters as the debtor shall have given notice that he intends to dispute, shall be proved, and if any new evidence of those matters, or any of them, shall be given, or any witness or witnesses to such matter shall not be present for cross-examination, and further time shall be desired to show cause, the Court shall, if it thinks the application reasonable, grant such further time as it may think fit.

By s. 7 (4), when the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay, secure or compound for a judgment debt, the court may, if it thinks fit, stay or dismiss the petition on the ground that an appeal is pending against the judgment. For form of bond, &c., on stay of proceedings, see Forms 19, 20, and 21, *post* pp. 114, 115. For form of adjournment of petition, see Form 24, p. 117.

140. *Non-appearance of creditor*.—If any creditor neglects to appear on his petition no subsequent peti-

tion against the same debtor or debtors, or any of them, either alone or jointly with any other person, shall be presented by the same creditor in respect of the same act of bankruptcy without the leave of the Court to which the previous petition was presented.

141. *Personal attendance of creditor dispensed with.*—The personal attendance of the petitioning creditor and of the witness or witnesses to prove the debt, and act of bankruptcy or other material statements, upon the hearing of the petition, may, if the Court shall think fit, be dispensed with.

142. *Proceeding after trial of disputed question.*—Where proceedings on a petition have been stayed for the trial of the validity of the petitioning creditor's debt, and such question has been decided in favour of the validity of the debt, the petitioning creditor may apply to the Registrar to fix a day on which further proceedings on the petition may be had, and the Registrar on production of the judgment of the Court in which the question was tried, or an office copy thereof, shall give notice to the petitioner by post of the time and place fixed for the hearing of the petition, and a like notice to the debtor at the address given in his notice to dispute, and also to their respective solicitors, if known.

143. *Application to dismiss.*—Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt, and such question has been decided against the validity of the debt, the debtor may apply to the Registrar to fix a day on which he may apply to the Court for the dismissal of the petition with costs, and the Registrar on the production of the judgment of the Court in which the question was tried, or an office copy thereof, shall give notice to both the petitioner and debtor (and to their respective solicitors, if known) by post of the time and place fixed for the hearing of the application.

See Form No. 25, "Dismissal of petition," and Form No. 26, "Dismissal of petition upon which proceedings are stayed where a receiving order has been made on a subsequent petition," post p. 117.

SERVICE OF CREDITOR'S PETITION.

144. *Personal service.*—A creditor's petition shall be personally served by delivering to the debtor a sealed copy of the filed petition.

145. *Substituted service.*—A petition shall be served upon the debtor by an officer or bailiff of the Court, or by the creditor or his solicitor, or by some person in their employ; provided that if personal service cannot be effected, the Court may extend the time for hearing the petition, or if the Court is satisfied by affidavit or other evidence on oath that the debtor is keeping out of the way to avoid such service, or service of any other legal process, or that for any other cause prompt personal service cannot be effected, it may order substituted service to be made by delivery of the petition to some adult inmate at his usual or last known residence or place of business, or by registered letter, or in such other manner as the Court may direct, and that such petition shall then be deemed to have been duly served on the debtor.

See Form No. 16, "Substituted service of petition Notice, in gazette," *post* p. 113.

146. *Proof of service.*—Service of the petition shall be proved by affidavit, with a sealed copy of the petition attached, which shall be filed in Court forthwith after the service.

147. *Extension of time.*—An application for extension of time for hearing a petition shall be in writing, but need not be supported by affidavit, unless in any case the Court shall otherwise require.

And see *post* rule 261, p. 93.

148. *Service out of jurisdiction.*—Where a debtor petitioned against is not in England, the Court may order service to be made within such time and in such manner and form as it shall think fit.

HEARING OF PETITION.

149. *Proceedings on petition*.—(1.) Where a petition is filed by a debtor, the Court shall forthwith make a receiving order thereon.

(2.) A creditor's petition shall not be heard until the expiration of eight days from the service thereof, Provided that—

Where the act of bankruptcy alleged is that the debtor has filed a declaration of inability to pay his debts, or where it is proved to the satisfaction of the Court that the debtor has absconded, or in any other case for good cause shown, the Court may, on such terms, if any, as it may think fit to impose, hear the petition at such earlier date as it may deem expedient.

See sec. 8 of the act with regard to the presentation of a debtor's petition, and the order thereon. By rule 128, *ante* p. 55, the petitioner must deposit £5 with the official receiver on filing the petition—*i.e.*, delivering it to the officer appointed to receive it. As to the power of the court to extend or abridge the time mentioned in this as in any other rule, see *post* rule 261, p. 93.

RECEIVING ORDER.

150. *Receiving order*.—(1.) A receiving order shall be in one of the Forms Nos. 28 and 29 in the Appendix, with such variations as circumstances may require.

(2.) When a receiving order is made, the Court shall at the same time fix a day for the public examination of the debtor.

For Forms Nos. 28 and 29, see *post* p. 118. As to the making of a receiving order and its effect, see ss. 5 and 9 of the act. Sec. 13 provides for the advertisement of a receiving order. Sec. 14 gives the court power to annul the receiving order in certain cases, while a general power to the same effect seems to be conferred by s. 104 (1). By s. 99 the making of a receiving order is one of the things which may be done by a registrar in bankruptcy, either of the High Court or of a county court.

151. *Receiving order on bankruptcy notice.*—A receiving order shall not be made against a debtor on a petition in which the act of bankruptcy alleged is non-compliance with a bankruptcy notice within the appointed time, where such debtor shall have applied to set aside such notice until after the hearing of the application, or where the notice has been set aside, or during a stay of the proceedings thereon; but in such case the petition shall be adjourned or dismissed as the Court may think fit.

See also s. 7 (4) of the act, and rules 118 to 124, *ante* pp. 52-54, with respect to bankruptcy notice.

152. *Stay of proceedings.*—There may be included in a receiving order, an order staying any action or proceeding against the debtor or staying proceedings generally.

Sec. 9 of the act prescribes the effect of a receiving order. Sec. 10 gives the court discretionary powers as to the appointment of receiver and the *stay of proceedings*; and section 11 provides for the service of the order staying proceedings.

153. *Advertisements.*—(1.) Where a receiving order is made, the Registrar shall forthwith give notice thereof to the official receiver and to the Board of Trade.

(2.) The official receiver shall forthwith send notice thereof to such local paper as the Board of Trade may from time to time direct, or in default of such direction, as he may select.

(3.) The notices shall be in the Forms Nos. 30 and 127 in the Appendix, with such variations as circumstances may require; but the Board of Trade may from time to time alter such forms or direct other forms to be used in lieu thereof.

See Form No. 30, *post* p. 118, and Form No. 127, *post* p. 163. And with respect to the advertising and gazetting of receiving orders, see s. 13 of the act; and as to other points connected with them, *ante* rule 15, p. 24, and *post* rule 204, p. 77.

154. *Costs of petition, &c.*—All proceedings under the Act down to and including the making of a receiving order shall be at the cost of the party prosecuting the same, but when a receiving order is made, the Court may make an order for the payment of the costs of the petitioning creditor (including the costs of the bankruptcy notice (if any) sued out by him) out of the first net proceeds of the estate, and a composition or scheme which does not provide for the payment in full of any costs so awarded may be disallowed.

When the proceeds of the estate are not sufficient for the payment of any costs necessarily incurred by the official receiver (in excess of the deposit) between the making of a receiving order and the conclusion of the first meeting of creditors, the Court may order such costs to be paid by the party prosecuting the proceedings.

The deposit referred to in this rule is provided for by rule 128, *ante* p. 55. The case of a receiving order being made against a debtor who turns out to have "no available assets," is dealt with by rule 248, *post* p. 89.

ADJUDICATION.

155. *Adjudication on application of debtor.*—At the time of making a receiving order, or at any time thereafter, the Court may, on the application of the debtor himself, adjudge him bankrupt. Such application may be made orally and without notice.

156. *Adjudication on application of other parties.*—When a receiving order has been made, and no creditors attend at the time and place appointed for the first meeting, or one adjournment thereof, or if sufficient creditors do not attend there to pass a special resolution, or where the official receiver satisfies the Court that the debtor has absconded, or that the debtor does not intend to propose a composition or scheme, or in any of the other cases mentioned in the Act, the Court may, either on the application of a creditor, or

of the official receiver, forthwith adjudge the debtor bankrupt.

The clauses of the act under which adjudication may take place on the application of parties other than the debtor are ss. 16 (3), 18 (11), 20 (1), and 23 (3).

157. *Form and notice.*—(1.) An order of adjudication shall be in the Form No. 38 in the Appendix, with such variations as circumstances may require.

(2.) When a debtor is adjudged bankrupt, the Registrar shall forthwith give notice thereof to the official receiver and to the Board of Trade, who shall advertise and gazette the adjudication in the like manner as is provided in the case of a receiving order.

See Form No. 38, *post* p. 125. For form of advertisement in local paper, see Form No. 39, p. 126, and of gazette notice, Form 127, p. 163. Rules 153, 203, and 204 relate to advertising and gazetting. By the Treasury order, *post* p. 178, the charge to be made by the "London Gazette" for the insertion of each notice authorised by the act or rules is to be 10s., except in case of estates administered under Part VII., when it is to be 3s. 4d.

158. *Order annulling adjudication.*—(1.) An order annulling an adjudication may be in the Form No. 41 in the Appendix, with such variations as circumstances may require.

(2.) When an adjudication is annulled, the Registrar shall forthwith give notice thereof to the Board of Trade in order that the annulment may be gazetted.

See Form No. 41, *post* p. 126. An adjudication may be annulled under either sec. 23 or 35 of the act. The form of a "Gazette" notice of an annulment of bankruptcy is No. 127 (8), which will be found *post* p. 163. For the fee on gazetting see note on the last rule.

COMPOSITION OR SCHEME UNDER SECTIONS 18 OR 23.

159. *Object of meetings.*—When the creditors, pursuant to section 18, resolve to entertain a proposal for a composition or scheme, the terms of the composition

or scheme shall be settled at the first meeting or adjournments thereof. The subsequent meeting shall be held for the purpose of confirming or rejecting the composition or scheme. If the composition or scheme is rejected the meeting may proceed to appoint a trustee.

For notice to creditors of first meeting, see Form 57, *post* p. 113. For notice convening second meeting to confirm composition or scheme see Form 63, *post* p. 135. Rule 183, *post* p. 72, relates to proxies, as to the use of which at meetings of creditors see Schedule I. of the act.

160. *Notice of application.*—The party applying to the Court to sanction a composition or scheme shall, not less than seven days before the day appointed for hearing the application, send notice of his application to the official receiver and to every creditor who has proved.

For form of notice under this rule, see Form No. 65, *post* p. 136. Sec. 18 (4) of the act provides that when a composition or scheme is accepted by the creditors, either the debtor or the official receiver may apply to the court to confirm it. A fee levied according to an *ad valorem* scale (for which see table A, *post* p. 175) is payable on every application to the Court to sanction a scheme or composition.

161. *Evidence and order.*—(1.) The Court before sanctioning a composition or scheme shall, in addition to investigating the other matters as required by the Act, require proof that the provisions of sub-sections (1), (2), and (3) of section 18 of the Act have been complied with. An order sanctioning a composition or scheme shall be in the Form No. 47 in the Appendix, with such variations as circumstances may require.

(2.) The Registrar shall forthwith send notice to the Board of Trade of every order made on an application to sanction a composition or scheme, and the Board of Trade shall gazette the same. The notice may be in the Form No. 127 (4) in the Appendix, with such variations as circumstances may require, but the Board of Trade may from time to time alter such Form.

For Form No. 47 referred to in this rule, see *post* p. 128; and for Form No. 127, see *post* p. 163.

162. *Correction of formal slips, &c.*—At the time a composition or scheme is sanctioned, the Court may correct or supply any accidental or formal slip, error, or omission therein, but no alteration in the substance of the composition or scheme shall be made.

163. *Proceedings if scheme sanctioned.*—When a composition or scheme is sanctioned, the official receiver shall forthwith put the debtor (or, as the case may be, the trustee under the composition or scheme) into possession of the debtor's property. The Court shall also rescind the receiving order.

164. *Non-payment of composition.*—Where a composition or scheme is sanctioned, and default is made in any payment thereunder, either by the debtor or the trustee (if any), no action to enforce such payment shall lie, but the remedy of any person aggrieved shall be by application to the Court.

See Form No. 48, *post* p. 128, "Application for enforcement of provision in a composition;" Form No. 49, p. 128, "Affidavit in support of such application;" and Form No. 50, order thereon, *post* p. 129, as to the enforcement of the provisions of a composition or scheme, see s. 18 (10).

165. *Vesting of property on annulment of composition.*—Where a composition or scheme is annulled, the property of the debtor shall, unless the Court otherwise directs, forthwith vest in the official receiver to whom the estate was originally assigned, without any special order being made or necessary.

The debtor will also be adjudged bankrupt, see sec. 18 (11) of the act.

166. *Annulment of composition.*—Where a composition or scheme is annulled the trustee under the composition or scheme shall pay over and account for to the trustee under the bankruptcy any moneys or property of the debtor which have come to his hands.

167. *Dividends under composition or scheme.*—Where under any composition or scheme provision is made

for the payment of any moneys to creditors entitled thereto, and any claim, in respect of which a proof has been lodged, is disputed, the Court may, if it shall think fit, direct that the amount which would be payable upon such claim, if established, shall be secured in such manner as the Court shall direct, until the determination of the claim so disputed; and on the determination thereof, the sum so secured shall be paid as the Court may direct.

STATEMENT OF AFFAIRS.

168. *How made out.*—Every debtor shall be furnished by the official receiver with instructions for the preparation of his statement of affairs. The statement of affairs (which shall be made out in duplicate, and one copy of which shall be verified) shall be in the Form No. 35 in the Appendix, with such variations or additions as circumstances may require, or in such other form as the Board of Trade may from time to time direct.

The official receiver shall file in Court the verified statement of affairs submitted to him by the debtor.

See Form No. 35, *post* p. 120. The clauses of the act relating to the preparation of the debtor's statement of affairs are ss. 16 and 70 (2). See further in reference to the subject of this rule, rule 196, *post* p. 75, rule 237, *post* p. 87, and rule 239, *post* p. 87.

PROOF OF DEBTS.

169. *Form of proof.*—A creditor's proof shall be in the Form No. 52 in the Appendix, with such variations as circumstances may require.

See Form No. 52, *post* p. 129. A fee of 1s. is now levied on each proof, see Table A, *post* p. 175. As to the proof of debts, see the second schedule of the act. That schedule should be read carefully in connection with all the rules under the present heading.

170. *Time for lodging proof.*—A proof intended to be used at the first meeting shall be lodged with the

official receiver not less than one clear day before the day appointed for such meeting.

171. *List of proofs and proofs to be filed.*—The official receiver, or, as the case may be, the trustee in every bankruptcy proceeding shall, on the first day of every month, send to the Registrar a certified list of all proofs, if any, tendered during the month next preceding, distinguishing in such list the proofs admitted, those rejected, and such as stand over for further consideration, and in the case of proofs admitted or rejected he shall transmit the proofs themselves for the purpose of being filed.

172. *Transmission from official receiver to trustee.*—When a trustee is appointed, the proofs of debts that have been received by the official receiver and which have not already been filed shall be handed over to the trustee, but the official receiver shall first make a list of such proofs, which he shall give to the Registrar to be filed with the proceedings.

173. *Time to admit or reject proof.*—Subject to the power of the Court to extend the time, the trustee, within fourteen days after receiving a proof, shall in writing either admit or reject it wholly or in part, or require further evidence in support of it.

But see rule 175 (2), *post*.

174. *Appeal from rejection of proof.*—Subject to the power of the Court to extend the time, no application to reverse or vary the decision of an official receiver or trustee in rejecting a proof shall be entertained after the expiration of twenty-one days from the date of the decision complained of.

And see the third paragraph of the next rule (175).

DIVIDENDS.

175. *Notice of intended dividend.*—(1.) Not more than two months and not less than twenty-one days before declaring a dividend, the trustee shall give

notice of his intention to do so to the Board of Trade (in order that the same may forthwith be gazetted), and to such of the creditors mentioned in the bankrupt's statement of affairs as have not proved their debts. Such notice shall specify the latest date within which proofs must be lodged, which shall be not less than seven days from the date of such notice.

See Forms No. 77, 78, pp. 139-140, and Form No. 127 (5), *post* p. 164. See clause 58 of the act as to the declaration and distribution of dividend. Clauses 59 to 63 also relate to the subject of dividends.

(2.) Immediately after the date mentioned as that within which proofs must be lodged, the trustee shall examine and in writing admit or reject any proof, which has not been previously admitted or rejected, and give notice to the creditor of his decision.

(3.) Where any creditor appeals against the decision of the trustee rejecting a proof under this Rule, such appeal shall, subject to the power of the Court to extend the time in special cases, be commenced, and notice thereof given to the trustee within seven days from the date of the notice of the trustee's decision against which the appeal is made, and the trustee shall in such case make provision for the dividend upon such proof, and the probable costs of such appeal in the event of the proof being admitted. Where no appeal has been commenced within the time specified in this Rule, the trustee shall exclude all proofs which have been rejected from participation in the dividend.

(4.) *Declaration of dividend.*—Immediately after the expiration of the time fixed by this Rule for appealing against the decision of the trustee, he shall proceed to declare a dividend, and shall give notice to the Board of Trade (in order that the same may be gazetted), and shall also send a notice of dividend to each creditor whose proof has been admitted, accompanied by a statement showing the position of the estate.

The fee for gazetting will be found at p. 178, and the form of gazette notice at p. 163.

(5.) The notices shall be in the Forms Nos. 77, 78, 79, and 80 in the Appendix, with such variations as circumstances may require; but the Board of Trade may from time to time alter such forms.

See the forms referred to, *post* pp. 139 and 140.

176. *Production of bills, notes, &c.*—Subject to the provisions of section 70 of the Bills of Exchange Act, 1882, and subject to the power of the Court in any other case on special grounds to order production to be dispensed with, every bill of exchange, promissory note, or other negotiable instrument or security, upon which proof has been made shall be exhibited to the trustee before payment of dividend thereon, and the amount of dividend paid shall be indorssed on the instrument.

177. *Dividend may be sent by post.*—The amount of the dividend may, at the request and risk of the creditor, be transmitted to him by post.

For form of authority to serve by post, see Form No. 80, *post* p. 140.

DISCHARGE.

178. *Application.*—A bankrupt intending to apply for his discharge under section 28 of the Act shall produce to the Registrar a certificate from the official receiver specifying the number of his creditors, and shall, not less than twenty-eight days before the day appointed for hearing the application, give notice of the time and place of the hearing of the application to the trustee and to the official receiver. The official receiver shall forthwith send a copy of such notice to the Board of Trade for insertion in the "London Gazette," and shall also send a copy of such notice to each creditor who has proved, not less than fourteen days before the day so appointed.

For the forms connected with the application for an order of discharge, see Forms 42, 43, and 44, *post* pp. 126 and 127; for the form of order of discharge, see Form No. 45, p. 127. For the form of

gazetting notice, No. 127 (7), p. 165. On every application for an order of discharge, a fee of £2 is payable with 1s. for each creditor to be notified.

179. *Order. Delivery of Order.*—The order of the Court made on an application for discharge shall be dated of the day on which it is made, and shall take effect on and from the day of its date; but such order shall not be delivered out or gazetted until after the expiration of the time allowed for appeal, or if an appeal be entered, until after the decision of the Court of Appeal thereon.

For form of order, see Form No. 45, *post* p. 127.

180. *Gazetting Order.*—When the time for appeal has expired, or, as the case may be, when the appeal has been decided by the Court of Appeal, the Registrar shall forthwith send notice of the order to the Board of Trade, who shall gazette the same.

The notice may be in Form No. 127 in the Appendix, with such variations as circumstances may require, but the Board of Trade may from time to time alter such form.

For Form 127, see *post* p. 163.

181. *Execution of judgment in case of conditional discharge.*—An application by the official receiver or trustee for leave to issue execution on a judgment under sub-section (6) of section 28 of the Act shall be in writing, and shall state shortly the grounds on which the application is made. When the application is lodged, the Registrar shall fix a day for the hearing.

The party applying shall give notice of the application to the debtor not less than eight days before the day appointed for the hearing, and shall at the same time furnish him with a copy of the application.

182. *Accounts of after-acquired property.*—Where a bankrupt is discharged subject to the condition that judgment shall be entered against him under section 28 of the Act, or subject to any other condition as to

his after-acquired property, it shall be his duty, until such judgment or condition is satisfied, from time to time to give the official receiver such information as he may require with respect to his after-acquired property, and not less than once a year to file in the Court a statement showing the particulars of any property or income he may have acquired subsequent to his discharge.

PROXIES AND VOTING LETTERS.

183. *Form and filing of proxies.*—(1.) A general proxy shall be in Form No. 54, a special proxy shall be in Form No. 55, and a voting letter under section 18, sub-section (2), or section 23 of the Act, shall be in Form No. 56 in the Appendix, with such variations as circumstances may require.

See the forms referred to, *post* pp. 130 and 131. See in connection with the subject of this rule, Schedule I. of the act.

(2.) A proxy shall be lodged with the official receiver or trustee not later than the day before the meeting at which it is to be used.

(3.) As soon as a proxy or voting letter has been used it shall be filed with the proceedings in the matter.

MEETINGS OF CREDITORS.

184. *Notice to debtor.*—(1.) The official receiver shall give three days' notice to the debtor of the time and place appointed for the first meeting of creditors. The notice, which may be in Form No. 58 in the Appendix, may be either delivered to him personally or sent to him by prepaid post letter, as may be convenient.

It shall nevertheless be the duty of the debtor to attend such first meeting although the notice is not sent to or does not reach him.

(2.) A notice to attend subsequent meetings may be

in the like form, with such variations as circumstances may require.

For Form No. 58, see *post* p. 132. As to the debtor's duty to attend the first meeting of creditors, see s. 24 (1) of the act.

185. *Notice of first meeting.*—The official receiver shall fix the day for the first meeting, and shall forthwith give notice thereof to the Board of Trade, who shall gazette the same. The notice to creditors shall be in Form No. 57 in the Appendix, with such variations as circumstances may require.

For Form 57, see *post* p. 132. See Schedule I. of the act as to meetings of creditors, and generally in connection with the rules relating thereto.

186. *Form and length of notice.*—The notices of subsequent meetings to be issued by the official receiver or trustee to creditors may be in the Form No. 62 in the Appendix, with such variations as circumstances may require. Where no special time is prescribed the notices shall be sent off not less than three days before the day appointed for the meeting.

For Form No. 62, see *post* p. 134.

187. *Non-reception of notice.*—Where a meeting of creditors is called by notice, the proceedings had and resolutions passed at such meeting shall, unless the Court otherwise orders, be valid, notwithstanding that some creditors shall not have received the notice sent to them.

188. *Proof of notice.*—An affidavit by the trustee, official receiver, or other officer of the Court, or the solicitor in the matter, or by the clerk of any such person, that the notice has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

189. *Costs of calling meeting.*—The costs of summoning a meeting of creditors at the instance of any person other than the official receiver or trustee shall be paid by the person at whose instance it is summoned,

to be repaid to him out of the estate if the creditors or the Court shall so direct.

190. *Copy of resolution to be filed.*—The official receiver, or, as the case may be, the trustee, shall send to the Registrar of the Court in which the matter is pending a copy, certified by him, of every resolution of a meeting of creditors.

PROCEEDINGS BY COMPANY OR CO-PARTNERSHIP.

191. *Public officer or agent of company, &c.*—A bankruptcy petition against, or bankruptcy notice to, any debtor to any company or co-partnership duly authorised to sue and be sued in the name of a public officer or agent of such company or co-partnership, may be presented by or sued out by such public officer or agent as the nominal petitioner for and on behalf of such company or co-partnership, on such public officer or agent filing an affidavit stating that he is such public officer or agent, and that he is authorised to present or sue out such petition or bankruptcy notice.

PROCEEDINGS BY OR AGAINST FIRM.

192. *Attestation of firm signature.*—Where an notice, declaration, petition, or other document requiring attestation is signed by a firm of creditors or debtors in the firm name, the partner signing for the firm shall add also his own signature, *e.g.* "Brown & Co. by James Green, a partner in the said firm."

See as to the subject of the six rules in this section clause 115 of the act. Although proceedings may be taken by or against a firm in the firm's name, it must not be forgotten that by clause 148 a firm "may act by any of its members."

193. *Service on firm.*—Any notice or petition for which personal service is necessary shall be deemed to be duly served on all the members of a firm if it is served, at the principal place of business of the firm.

in England, on any one of the partners, or upon any person having at the time of service the control or management of the partnership business there.

194. *Debtors' petition by firm.*—Where a firm of debtors file a declaration of inability to pay their debts or bankruptcy petition in the firm name, the declaration or petition shall be accompanied by an affidavit made by one at least of the partners, setting forth the names of the partners and showing that they all concur in the filing of the declaration or petition.

195. *Receiving order against firm.*—A receiving order made against a firm shall operate as if it were a receiving order made against each of the persons who at the date of the order is a partner in that firm.

196. *Statement of affairs.*—In cases of partnership the debtors shall submit a statement of their partnership affairs, and each debtor shall submit a statement of his separate affairs.

197. *Adjudication against partners.*—No order of adjudication shall be made against a firm in the firm name, but it shall be made against the partners individually.

PART III.—SPECIAL PROCEDURES.

SMALL BANKRUPTCIES.

198. *Application for order.*—An application by the official receiver that the estate of a debtor may be ordered to be administered in a summary manner shall be in Form No. 33 in the Appendix, with such variations as circumstances may require.

For Form No. 33 see *post* p. 119. The procedure in small bankruptcies takes place under s. 121 of the act, which defines a small bankruptcy as one in which the property of the debtor is not likely to exceed £300.

199. *Summary administration.*—Where an estate is ordered to be administered in a summary manner,

under section 121 of the Act, the provisions of the Act and of these Rules shall, subject to any special direction of the Court, be modified as follows, namely:—

(1.) No advertisement of any proceeding in a local paper shall be necessary.

(2.) All questions of law and fact shall be determined by the Court having jurisdiction in the matter, and no application for a jury shall be entertained.

(3.) If the official receiver satisfies the Court that the debtor has absconded, or that the debtor does not intend to propose a composition or scheme, or that the composition or scheme proposed is not reasonable or calculated to benefit the general body of creditors, the Court may forthwith adjudge the debtor bankrupt.

(4.) If during or at the conclusion of the public examination of the debtor it appears to the Court that a composition or scheme ought not to be sanctioned by reason of the conduct of the debtor, the Court may forthwith adjudge the debtor bankrupt.

(5.) No appeal shall lie from any order of the Court, except by leave of the Court.

(6.) All payments shall, unless the Board of Trade otherwise orders, be made into and out of the Bank of England.

(7.) Except for the purpose of confirming a composition or scheme there shall be only one meeting of creditors. The meeting may, where it seems expedient, be held on the day appointed for the public examination of the debtor.

(8.) The estate shall be realized with all reasonable despatch, and, where practicable, distributed in a single dividend when realized.

ADMINISTRATION OF ESTATE OF PERSON DYING INSOLVENT.

200. *Form of petition.*—A creditor's petition under section 125 of the Act shall be in the Form No. 11 in

the Appendix, with such variations as circumstances may require, and shall be verified by affidavit.

For Form No. 11 see *post* p. 110. The fee on the petition payable by stamp is £5.

201. *Service*.—(1.) The petition shall, unless the Court otherwise directs, be served on each executor who has proved the will, or, as the case may be, on each person who has taken out letters of administration. The Court may also, if it thinks fit, order the petition to be served on any other person.

(2.) Service shall be proved in the same way as is provided in the case of an ordinary creditor's petition, and the petition shall be heard in the like manner.

See as to service of a creditor's petition, rules 144 to 148, *ante* p. 60.

202. *Administration order*.—An administration order under section 125 shall be in the Form No. 31 in the Appendix, with such variations as circumstances may require.

See Form No. 31, *post* p. 118.

PART IV.—OFFICERS, TRUSTEES, AUDIT, &c.

GAZETTING.

203. *Gazetting notices*.—All notices requiring publication in the "London Gazette" shall be gazetted by the Board of Trade.

For the form of bankruptcy notices for "London Gazette," see Form No. 127, *post* p. 163. For the fees payable on gazetting, see the Treasury order, *post* p. 178.

BOOKS TO BE KEPT AND RETURNS TO BE MADE BY REGISTRARS.

204. *Notice of orders to Board of Trade*.—When a receiving order, or an order of adjudication, or an

order fixing the public examination of a debtor, or an order for administration under section 121 or under section 125, or an order on an application to sanction a composition or scheme, or an order annulling a composition or scheme, or an order annulling an adjudication, is made, or an order on an application for discharge is delivered out, the Registrar shall forthwith give notice thereof to the Board of Trade.

The notices may be according to Form No. 127 in the Appendix, or in such other form as the Board of Trade may from time to time require.

For Form 127, see *post* p. 163.

205. *Books to be kept by Registrars.*—The senior Registrar in Bankruptcy of the High Court, and every Registrar of a County Court having jurisdiction in bankruptcy, shall keep books according to the forms in the Appendix, and the particulars given under the different heads in such books shall be entered forthwith after the proceedings shall be had.

See Forms No. 125 and 126, *post* pp. 161 and 162.

206. *Extracts and returns.*—The Registrars shall make and transmit such extracts from their books and shall furnish such information and returns as the Board of Trade may from time to time require.

Sec. 131 is the provision of the act relating to returns by bankruptcy officers.

ACCOUNTS AND AUDIT.

207. *Record Book.*—The official receiver, until a trustee is appointed, and thereafter the trustee, shall keep a book to be called "The Record Book," in which he shall record all minutes, all proceedings had, and resolutions passed at any meeting of creditors, or of the committee of inspection, and all such matters as may be necessary to give a correct view of his administration of the estate, but he shall not be bound to

insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors), nor need he exhibit such document to any person other than a member of the committee of inspection.

208. *Cash Book*.—The official receiver, until a trustee is appointed, and thereafter the trustee, shall keep a book to be called the "Cash Book" (which shall be in such form as the Board of Trade may from time to time direct), in which he shall (subject to the provisions of these Rules as to trading accounts) enter from day to day the receipts and payments made by him.

209. *Books to be submitted to committee of inspection*.—The trustee shall submit the Record Book and Cash Book, together with any other requisite books and vouchers, to the committee of inspection (if any) when required, and not less than once every three months.

210. *Audit of Cash Book*.—The committee of inspection shall not less than once every three months audit the Cash Book and certify therein under their hands the day on which the said book was audited. The certificate shall be in the Form No. 82 in the Appendix, with such variations as circumstances may require.

For Form No. 82, see *post* p. 142.

211. *Board of Trade audit of trustee's accounts*.—Every trustee shall, at the expiration of six months from the date of the receiving order, and at the expiration of every succeeding six months thereafter until his release, transmit to the Board of Trade a duplicate copy of the Cash Book for such period, together with the necessary vouchers and copies of the certificates of audit by the committee of inspection. He shall also forward with the first of inspection a summary of the debtor's statement of affairs, in such form as the Board of Trade may direct, showing thereon in red ink the amounts realized, and explaining the cause of the non-realization of such assets as may be unrealized.

When the estate has been fully realized the trustee shall forthwith send in his accounts to the Board

of Trade, although the six months may not have expired.

The accounts sent in by the trustee shall be certified and verified by him according to the Form No. 83 in the Appendix.

For Form 83, see *post* p. 142. As to the audit of trustees accounts, see secs. 78, 89, 90, 91 and 105 (2) of the act. For fee payable on forwarding cash book for audit, see Table B., *post* p. 176.

212. *Copy accounts to be filed.*—When the trustee's account has been audited, the Board of Trade shall certify that the account has been duly passed, and thereupon the duplicate copy, bearing a like certificate, shall be transmitted to the Registrar of the Court, who shall file the same with the proceedings in the bankruptcy.

213. *Affidavit of no receipts.*—Where a trustee has not since the date of his appointment or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the debtor's estate, he shall, at the period when he is required to transmit his estate account to the Board of Trade, forward to the Board an affidavit of no receipts or payments.

For form of this affidavit, see Form No. 83, *post* p. 142.

214. *Proceedings on resignation.*—Upon a trustee resigning, or being released or removed from his office, he shall deliver over to the official receiver, or, as the case may be, to the new trustee, all books kept by him, and all other books, documents, papers, and accounts in his possession relating to the office of trustee.

215. *Joint and separate estates accounts.*—Where a receiving order has been made against debtors in partnership, distinct accounts shall be kept of the joint estate and of the separate estate or estates, and no transfer of a surplus from a separate estate to the joint estate on the ground that there are no creditors under such separate estate shall be made until notice of the intention to make such transfer has been gazetted.

See as to joint and separate estates, s. 40 (3) of the act.

216. *Debtor's looks.*—The Court may, on the application of the official receiver, direct in what manner the debtor's books of account, or any of them, may be disposed of.

By rule 259, *post* p. 93, no person is to be allowed to set up a lien on the debtor's books against the official receiver or trustee.

217. *Annual returns.*—Every trustee shall, within one month after the 31st day of December in each year, transmit to the Board of Trade a statement according to the form in the Appendix of every bankruptcy matter in which he is a trustee.

The annual statement of proceedings is provided for by s. 81 of the act. It must be made according to Form No. 84, *post* p. 143.

TRUSTEES.

218. *Form of certificate of appointment.*—A certificate by the Board of Trade, certifying the appointment of a trustee shall be in the Form No. 71 in the Appendix, with such variations as circumstances may require.

See Form No. 71, *post* p. 137. The certificate of the Board of Trade is given under s. 21 (2) of the act. S. 140 makes the certificate of the Board of Trade not only receivable in evidence, but conclusive evidence of the facts certified.

219. *Notice of appointment.*—When the appointment of a trustee is certified notice of his appointment shall forthwith be gazetted by the Board of Trade. The trustee shall also forthwith insert notice of his appointment in a local paper and send the certificate to the Registrar to be filed.

For form of gazette notice, see Form No. 127, *post* p. 163.

220. *Notification of objection to High Court.*—(1.) Where the Board of Trade objects to the appointment of a trustee, and is required by a majority in value of the creditors to notify the objection to the High Court, the requisition shall be in Form No. 70 in the Appen-

dix, with such variations as circumstances may require. On receipt of such requisition the Board of Trade shall forthwith transmit a copy thereof to the senior Registrar in Bankruptcy of the High Court, who shall fix a time for the hearing of the matter. At the hearing the person objected to, and every creditor, and the Board of Trade, shall be entitled to be heard.

For Form 70, see *post* p. 137.

(2.) The Board of Trade may also with the copy requisition communicate to the Court the grounds of its objections. Any report so made by the Board of Trade shall be *prima facie* evidence of statements therein contained.

221. *Trustee not accounting under sect. 162.*—It shall be a sufficient objection to the appointment of a trustee that he has not complied with the requirements of section 162 of the Act, or of any order of the Board of Trade made thereunder in respect of any matter as to which he was under an obligation to comply.

For other grounds on which the Board of Trade may object to the appointment of a trustee, see s. 21 (2) of the act.

222. *Removal by Board of Trade.*—Where a trustee is removed by the Board of Trade, notice of the order removing him shall at once be transmitted by the Board of Trade to the Registrar of the Court, who shall file the notice with the proceedings in the matter, and give written notice thereof to the official receiver.

The Board of Trade shall also cause a notice of the order to be gazetted.

The Board of Trade may remove a trustee under s. 86 (2) of the act.

223. *Notice of resignation.*—A trustee intending to resign his office shall call a meeting of creditors to consider whether his resignation shall be accepted or not, and shall give not less than seven days' notice of the meeting to the official receiver.

See Form No. 68, "minutes of meeting for receiving resignation of trustee, &c.," *post* p. 136.

224. *Rate of remuneration.*—The creditors, or, as the case may be, the committee of inspection, in voting the remuneration of the trustee, shall distinguish between the commission or per-centage payable on the amount realized, and the commission or per-centage payable on the amount distributed in dividend.

The rate of commission or per-centage on the amount realized shall not exceed the rate on the amount distributed; for instance, if the commission or per-centage on the amount distributed be two per cent., the commission or per-centage on the amount realized shall not exceed two per cent.

The remuneration of the trustee is the subject of s. 72 of the act.

225. *Trustee carrying on business.*—(1.) Where the trustee carries on the business of the debtor, he shall keep a distinct account of the trading, and shall incorporate in the Cash Book the total weekly amount of the receipts and payments on such trading account.

The trustee may by s. 57 (1) of the act, with the permission of the committee of inspection, carry on the business of the bankrupt so far as may be necessary for the beneficial winding-up of the same. If there be no committee of inspection, the Board of Trade may by s. 22 (9) give the requisite permission. As to the cash book, see *ante* rules 208-210, p. 79.

(2.) The trading account shall from time to time and not less than once in every month be verified by affidavit, and the trustee shall thereupon submit such account to the committee of inspection (if any) or such member thereof as may be appointed by the committee for that purpose, who shall examine and certify the same.

For forms of accounts and affidavit verifying them, see Forms Nos. 85, 86, and 87, *post* pp. 143 and 144.

226. *Notice of application for release.*—A trustee, before making application to the Board of Trade for his release, shall give notice of his intention so to do, according to the Form No. 93 in the Appendix, to all
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the creditors of the debtor who have proved their debts, and shall send with such notice a summary of his receipts and payments as trustee.

See Form No. 93, *post* p. 147. See also Form No. 94, p. 147, and s. 82 of the act.

227. *Meeting to consider conduct of trustee.*—Where one-fourth in value of the creditors desire that a general meeting of the creditors may be summoned to consider the propriety of removing the trustee, such meeting may be summoned by a member of the committee of inspection, or by the official receiver on the deposit of a sum sufficient to defray the expenses of summoning such meeting.

For the form of notice summoning a meeting of creditors, see Form No. 66, *post* p. 136. For the control of the creditors over the trustee, see s. 89 of the act, and for their power to dismiss him, s. 86.

228. *Authority for account at local bank.*—Application by a committee of inspection for authority to the trustee to make his payments into and out of a local bank shall be in Form No. 91 in the Appendix, and the authority shall be in Form No. 92 in the Appendix, with such variations as circumstances may require.

The forms referred to will be found *post* pp. 146 and 147. S. 74 of the act gives power to open a local account. See as to payments into and out of a local bank, *post* rule 251, p. 90. Fees amounting to £3 are payable upon the opening of a local banking account, see *post* p. 176.

229. *Application for directions.*—Where a trustee desires to apply to the Court for directions in any matter, he may file an application in the Form No. 74 in the Appendix. The Court shall then hear the application, or fix a day for hearing it and direct the trustee to apply by motion.

Form 74 will be found at p. 138. This rule carries out s. 89 (3) of the act.

230. *Creditor may obtain copy of trustee's accounts.*—Any creditor who has proved, may apply to the trustee

for a copy of the accounts (or any part thereof) relating to the estate as shown by the Cash Book up to date, and on paying for the same at the rate of three-pence per folio of seventy-two words (each figure counting as one word), he shall be entitled to have such copy accordingly.

231. *Fee for list of creditors.*—In the case mentioned in section 79 of the Act, the fee shall be calculated at the same rate as in the last preceding Rule mentioned.

If the trustee does not comply with the last two rules, the Board of Trade may compel him by s. 91 of the act. See also s. 102 (5).

DISCLAIMER OF LEASE.

232. *Disclaimer of lease without leave.*—A lease may be disclaimed without the leave of the Court in any of the following cases, namely, where the bankrupt has not sublet or assigned the lease or created any mortgage or charge thereon; and

- (a.) The rent reserved and real value of the property leased, as ascertained by the property tax assessment, are less than twenty pounds per annum; or
- (b.) The estate is administered under the provisions of section 121 of the Act; or
- (c.) The trustee serves the lessor with notice of his intention to disclaim, and the lessor does not within seven days after the receipt of such notice give notice to the trustee requiring the matter to be brought before the Court.

Except as provided by this Rule the disclaimer of a lease without the leave of the Court shall be void.

S. 55 of the act relates to the disclaimer of onerous property. For form of notice to disclaim a lease, see Form No. 76, *post* p. 139.

OFFICIAL RECEIVERS.

233. *Appointment.*—Judicial notice shall be taken of the appointment of the official receivers appointed by the Board of Trade.

234. *Appointment of deputy.*—(1.) When the Board of Trade, under the powers given by section 67 of the Act, appoints any person to act as deputy for, or in the place of an official receiver, notice thereof shall be given by letter to the Registrar of the Court to which such official receiver is or was attached. The letter shall specify the duration of such acting appointment.

(2.) Any person so appointed shall, during his tenure of office, have all the status, rights, and powers, and be subject to all the liabilities of an official receiver.

See s. 67 of the act as to the appointment, &c., of deputy official receivers.

235. *Removal.*—(1.) An official receiver may be removed from his office by an order of the Board of Trade. Notice of an order removing an official receiver shall be communicated by letter to the Registrar of the Court to which the official receiver was attached.

(2.) Where an official receiver is removed, dies, or resigns, all estates, rights, and powers vested in him shall, without any conveyance or transfer, vest in such official receiver as the Board of Trade may appoint.

As to the powers of the Board of Trade in regard to official receivers, see s. 66 of the act.

236. *Rota.*—When there are two or more official receivers attached to the same Court the receivership of estates shall be assigned to them in rotation. The rota shall be commenced by the first estate being assigned to the receiver whose name comes first in alphabetical order.

Provided that the Board of Trade may at any time require a particular estate to be assigned to a particular official receiver. In such case the Registrar shall

assign, or, as the case may be, transfer the receivership of that estate to the official receiver so designated.

See s. 66 of the act.

237. *Duties as to debtor's statement of affairs.*—(1.) As soon as the official receiver receives notice that he has been appointed to the receivership of an estate, he shall furnish the debtor with a copy of instructions for the preparation of his statement of affairs.

The instructions may be in Form No. 35 in the Appendix, with such variations or additions as circumstances may require.

See Form No. 35, *post* p. 120. S. 16 of the act relates to the debtor's statement of affairs; and rule 196, *ante* p. 75, provides for the statement of affairs by a firm. See also rule 168, *ante* p. 67.

(2.) The official receiver or some person deputed by him shall also forthwith hold a personal interview with the debtor for the purpose of investigating his affairs and determining whether the estate should be administered under section 121 of the Act.

(3.) It shall be the duty of the debtor to attend at such time and place as the official receiver may appoint.

As to the duties of a debtor, see s. 24 of the act.

238. *Subsistence allowance to debtor.*—Subject to any general or special directions which the Board of Trade may give, the official receiver, while in the possession of the property of a debtor, may make him such allowance out of his property for the support of himself and his family as may seem just. In fixing the amount of such allowance the assistance rendered by the debtor in the management of his business or affairs may be taken into account.

See s. 64 of the act as to allowance to bankrupt for maintenance or service.

239. *Special report as to person employed to assist debtor.*—Whenever, under the powers given by section

70 of the Act, the official receiver employs any person to assist the debtor in the preparation of his statement of affairs he shall forthwith report the matter by letter to the Board of Trade, justifying his action therein and specifying the remuneration to be allowed to such person.

240. *Use of proxies by deputy.*—Where an official receiver who holds any proxy or proxies cannot conveniently attend any meeting of creditors, at which such proxy or proxies might be used, he may depute some person in his employment or under his official control, or some officer of the Board of Trade, by writing under his hand, to attend such meeting and use such proxies on his behalf, and in such manner as he may direct.

See Schedule I., rule 7 ; and rule 242, *post*.

241. *Personal performance of duties.*—The Board of Trade may, by general or special directions, determine what acts or duties shall be performed by the official receiver in person, and in what cases he may discharge his functions through the agency of his clerks or other persons in his regular employ or under his official control.

See s. 66 of the act, and also rule 257, *post* p. 92.

242. *Assistant official receivers.*—An assistant official receiver, appointed by the Board of Trade, shall be an officer of the Court, like the official receiver to whom he is assistant, and, subject to the directions of the Board of Trade, he may represent the official receiver in all proceedings in Court, or in any administrative or other matter. Judicial notice shall be taken of the appointment of an assistant official receiver, and he may be removed in the same manner as is provided in the case of an official receiver.

S. 71 of the act gives the Board of Trade power to appoint officers.

243. *Registrar to act in sudden emergency.*—In any case of sudden emergency, where there is no official

receiver capable of acting, any act or thing required or authorized to be done by an official receiver may be done by the Registrar.

244. *Removal of special manager.*—When the official receiver appoints a special manager he may at any time remove him if his employment seems unnecessary or unprofitable to the estate, and he shall remove him, if so required, by a special resolution of the creditors.

As to the appointment, &c., of a special manager, see s. 12 of the act.

245. *Mode of application to Court.*—Applications by the official receiver to the Court may be made personally, and without notice or other formality; but the Court may in any case order that an application be renewed in a formal manner, and that such notice thereof be given to any person likely to be affected thereby as the Court may direct.

246. *Application for directions.*—In any case of doubt or difficulty or in any matter not provided for by the Act or these Rules relating to any proceeding in Court the official receiver may apply to the Court for directions.

247. *Transfer of property from official receiver to trustee.*—Where a debtor is adjudged bankrupt, and a trustee is appointed, the official receiver shall forthwith put the trustee into possession of all property of the bankrupt which the official receiver may be possessed of; and it shall be the duty of the official receiver to communicate to the trustee all such information respecting the bankrupt and his estate and affairs as may be necessary or conducive to the due discharge of the duties of the trustee.

As to the vesting of the bankrupt's property in the trustee, see s. 54 (2) of the act.

248. *No assets.*—Where a debtor, against whom a receiving order has been made, has no available assets the official receiver shall not be required to incur any expense in relation to his estate without the express directions of the Board of Trade.

By rule 128, *ante* p. 55, £5 is to be deposited on the presentation of a bankruptcy petition.

249. *Accounting by official receiver.*—(1.) Where a composition or scheme is sanctioned by the Court the official receiver shall account to the debtor, or, as the case may be, to the trustee under the composition or scheme.

(2.) Where a debtor is adjudged bankrupt, and a trustee is appointed, the official receiver shall account to the trustee in the bankruptcy.

(3.) If the debtor, or, as the case may be, the trustee, is dissatisfied with the account or any part thereof, he may report the matter to the Board of Trade, who shall take such action (if any) thereon as it may deem expedient.

See s. 70 (3) of the act.

(4.) The provisions of Part IV. of these Rules as to trustees and their accounts shall not apply to the official receiver when acting as trustee, but he shall account in such manner as the Board of Trade may from time to time direct.

250. *To act for Board of Trade where no committee of inspection.*—Where there is no committee of inspection any functions of the committee of inspection which devolve on the Board of Trade may, subject to the directions of the Board, be exercised by the official receiver.

See on the subject of this rule, s. 22 of the act.

PAYMENTS INTO AND OUT OF BANK.

251. *Local bank.*—Where the trustee is authorized to have an account at a local bank, he shall forthwith pay all moneys received by him in to the credit of the estate. All payments out shall be made by cheque payable to order, and every cheque shall have marked *or written* on the face of it the name of the estate, and *shall be signed* by the trustee, and countersigned by

such person as the creditors or the committee of inspection may appoint.

See ss. 74 and 75 of the act, and rule 228, *ante* p. 84.

252. *Payments out of Bank of England.*—All payments out of the Bankruptcy Estates Account shall be made by cheques to order, signed by such officers of the Board of Trade as the Board may from time to time appoint.

SECURITY BY TRUSTEE OR SPECIAL MANAGER.

253. *Standing security to Board of Trade.*—In the case of a trustee or special manager the following rules as to security shall be observed, namely :—

- (1.) The security shall be given to such officers or persons and in such manner as the Board of Trade may from time to time direct.
- (2.) It shall not be necessary that security shall be given in each separate matter; but security may be given either specially in a particular matter or generally to be available for any matter in which the person giving security may be appointed either as trustee or special manager.
- (3.) The Board of Trade shall fix the amount and nature of such security, and may from time to time as they think fit either increase or diminish the amount of standing security which any such person is required to give.

See s. 12 of the act as to the security of the special manager, and clause 21 as to that of the trustee. For the form of bond to be given by a trustee, see Form No. 72, *post* p. 137.

REMUNERATION OF SPECIAL MANAGER, &c.

254. *Rate of payment.*—Where a special manager is appointed and his remuneration is not fixed by the

creditors, he shall be paid according to such scale as may from time to time be fixed by the Board of Trade.

S. 12 of the act relates to the appointment and remuneration of the special manager.

UNCLAIMED FUNDS, &c. UNDER SECTION 162.

255. *Mode of payment into Bank of England.*—Any person whose duty it is, pursuant to section 162 of the Act, to pay into the Bankruptcy Estates Account any unclaimed funds or dividends, shall first apply in such manner as the Board of Trade may direct to the Board of Trade for a paying-in order. The paying-in order shall be an authority to the Bank of England to receive the payment.

256. *Application for payment out by party entitled.*—An application, under section 162 of the Act, for payment out of the Bankruptcy Estates Account of any sum to which any person claims to be entitled shall be made in such form and manner as the Board of Trade may from time to time direct, and shall (unless the Board of Trade dispenses therewith) be supported by the affidavit of the claimant, and such further evidence as the Board may require.

See Board of Trade Orders, *post* p. 215.

PART V.—MISCELLANEOUS.

MISCELLANEOUS MATTERS.

257. *Board of Trade orders, &c.*—The Board of Trade may from time to time issue general orders or regulations, for the purpose of regulating any matters under the Act or these Rules, which are of an administrative, and not of a judicial character. Judicial notice shall be taken of any general orders or regulations which

are printed by the Queen's printers, and purport to be issued under the authority of the Board of Trade.

See s. 140 of the act.

258. *Falsification of documents.*—Any person who knowingly falsifies or fraudulently alters any document in or incidental to any proceeding under the Act or these Rules shall be deemed to be guilty of contempt of Court, and shall be liable to be punished accordingly.

The penalty imposed by this Rule shall be in addition to, and not in substitution for, any other penalty, punishment, or proceeding to which such person may be liable.

259. *No lien on debtors' books.*—No person shall, as against the official receiver or trustee, be entitled to withhold possession of the books of accounts belonging to the debtor or to set up any lien thereon.

260. *Non-compliance with Rules.*—Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceeding void, unless the Court shall so direct, but such proceeding may be set aside, either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court may think fit.

See s. 105 (3) and s. 143.

261. *Abridgment or enlargement of time.*—The Court may, under special circumstances and for good cause shown, extend or abridge the time appointed by these Rules or fixed by any order of the Court for doing any act or taking any proceeding.

See s. 104 (4) of the act.

262. *Repeal.*—The Bankruptcy Rules of 1870, 1871, 1873, and 1878 are hereby annulled, except so far as regards any proceedings under the Bankruptcy Act, 1869, which may be pending in any Court at the date of the commencement of these Rules.

263. *Saving for existing laws, &c.*—When no other provision is made by the Act or these Rules the present law, procedure, and practice in bankruptcy matters shall, in so far as applicable, remain in force. And save as provided by these Rules, or Rules amending them, the Rules of the Supreme Court shall not apply to any proceeding in bankruptcy.

264. *Pending proceedings.*—In any proceeding commenced under the Bankruptcy Act, 1869, or any previous Bankruptcy Act, a Registrar shall, unless and until the Judge otherwise orders, continue to have and exercise all powers and jurisdiction (not otherwise provided for by the Act or these Rules) which he had by delegation or otherwise at the commencement of these Rules.

As to pending proceedings, see ss. 94 and 169 of the act.

RULES UNDER SECTION 5 OF THE DEBTORS ACT, 1869, AND SECTION 103 OF THE ACT.

265. *Jurisdiction of High Court Registrars.*—Unless and until the Lord Chancellor otherwise orders, the jurisdiction and powers of the High Court under section 5 of the Debtors Act, 1869, shall be exercised by the bankruptcy Registrars of the High Court.

See s. 103 (2) of the act; and also Order of the Lord Chancellor, dated January 1, 1884, p. 207, and Order of Mr. Justice Cave, of the same date, p. 208.

266. *Fee on receiving order.*—(1.) When a receiving order is made under section 103 of the Act, the creditor shall pay the like fee and deposit as are prescribed in the case of a bankruptcy petition.

See *ante* rule 128.

(2.) Where the Court is of opinion that a receiving order ought to be made in lieu of committal, and the judgment creditor does not consent to pay the required fee and deposit, the Court may dismiss the application

or adjourn it on such terms, as to costs and otherwise, as may be just.

267. *Administration order in lieu of receiving order.*—Where an application to commit is made to a County Court, and it appears to the Court that the total liabilities of the judgment debtor do not exceed fifty pounds, the Court may, if it thinks that an order for committal ought not to be made, make an administration order under section 122 of the Act in lieu of making a receiving order.

268. *Power to transfer in certain cases.*—(1.) Where an application to commit is made to the Judge of a Court not having bankruptcy jurisdiction, and he is of opinion that a receiving order should be made in lieu of committal, he may order the matter to be transferred to the nearest or most convenient Court having bankruptcy jurisdiction.

(2.) In such case the Registrar of the Court making the transfer shall transmit by post to the Registrar of the Court to which the matter is transferred the proceedings in the matter, together with a copy of the order of transfer.

269. *High Court judgments.*—No Inferior Court within the London Bankruptcy District shall exercise jurisdiction under section 5 of the Debtors Act, 1869, in respect of any judgment of the High Court.

270. *Procedure.*—The County Court Rules for the time being in force as to the committal of judgment debtors shall, with any necessary modifications, apply to all Courts exercising jurisdiction under section 5 of the Debtors Act, 1869, provided that any reference therein to the Bankruptcy Act, 1869, shall be deemed to extend also to the corresponding provisions of the Bankruptcy Act, 1883.

[The County Court Rules referred to and made applicable "with necessary modifications to all Courts exercising jurisdiction under s. 5 of the Debtor's Act, 1869," are those included in Order xix. of the County Court Rules as that Order was amended in January, 1884, by the substitution of four new rules for those

263. *Saving for existing laws, &c.*—Where a provision is made by the Act or these Rules, law, procedure, and practice in bankruptcy shall, in so far as applicable, remain as provided by these Rules, or by the Rules of the Supreme Court. Debtors Act, 1869," shall be examined on oath, hereafter all have been personally served

264. *Pending proceedings commenced under the Bankruptcy Act*—In pursuance of any judgment or order of any other Court of competent jurisdiction, a judgment summons after the expiration of the date on which the last payment into Court, or the date on which the last judgment or order shall have been made, or if no judgment or order shall have been made, then from the date upon which the judgment or order was made unless an affidavit be filed, stating the residence or business, his trade or profession (if any), and any facts known to the deponent, showing the means the debtor has or since the date of the judgment or order has had to pay or to satisfy the debt or instalments sufficient to satisfy the Court that the debtor has the means of obeying or could have obeyed the order of the Court.

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If the facts stated in the affidavit be considered by the registrar insufficient, he shall refuse to issue the summons, and refer the applicant to the Court for its directions, and the judge shall make such order in the matter as he shall think right.

7. A judgment summons shall not be issued by a Court unless the debtor resides or carries on business or is employed within its district, or unless leave of the judge under section 48 of the "County Courts Act, 1856," has been given, and a minute thereof entered, after hearing in open Court the grounds on which the leave is asked; but the districts of the Courts referred to in section 3 of the "County Courts Act, 1867," shall be deemed to be one district, so far as relates to the issuing of judgment summonses by the Court in which action was brought.

8. Where a judgment creditor desires to apply for a judgment summons to a County Court other than the County Court in which the order or judgment was obtained, he shall obtain from the registrar of the County Court in which the order or judgment was obtained, a certified copy of the order or judgment in the action, according to the form in the Schedule, and file the same with his application.

9. Where a party desires to enforce by commitment in any County Court a judgment of any competent Court, he shall obtain from such Court an office copy of the judgment he desires so to enforce, and shall file such office copy, together with an affidavit of the sum then due thereon, with the registrar of the Court of the district in which the party against whom the same is to be enforced resides or carries

business or is employed, who shall thereupon issue a judgment summons.

Every judgment summons shall be according to the form in the , and be issued not less than ten clear days, and be served than five clear days, before the day on which the judgment required to appear, except in the case provided for by the rule.

the person applying for the judgment summons shall registrar that the judgment debtor is about to remove ing or place of business, or is keeping out of the way to hen the judgment summons may be issued and served e before the hearing: Provided that the Court shall not act a summons issued under this rule, unless at the hearing the judge is satisfied, by evidence on oath, that at the time of the application for the judgment summons such party was about to remove from his dwelling or place of business, or was keeping out of the way to avoid service, in either of which cases service upon the party at any time before the time appointed for the appearance of such party shall be sufficient.

12. A judgment summons may [issue without leave of the Court, except in cases provided for either by s. 48 of the "County Courts Act, 1856," or by the last rule, or where the judgment is more than six years old.

13. Where a judgment summons has not been served within due time by a bailiff, a successive summons may be issued without fee, and may be served by any person the judge or registrar may direct; but if such successive summons is not served in due time, no further successive summons shall be allowed, but a fresh summons may be issued on payment of the fee.

14. The hearing of a judgment summons may be adjourned from time to time.

15. Any witness may be summoned to prove the means of the judgment debtor, in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint; and the expenses of any person examined by the Court, whether summoned or not, may be allowed by the Court.

15a. In Book H. in the Schedule to the County Court Rules, 1876, there shall be entered the name of every witness who shall have been examined as to the means of the debtor, and whenever an order of commitment shall be made there shall also be entered in the column "order" of the said book a note or minute showing whether such order has been made on account of the past or of the present ability of the debtor to obey the order of the Court.

15b. Where a judgment creditor issuing a judgment summons, or a judgment debtor summoned to appear by a judgment summons, does not reside within the district of the Court in which the summons is to be heard, he may forward to the registrar of the Court from which the summons issued an affidavit, setting forth any facts which he may wish the Court should have before it, prior to its making any order on

the summons. And the Court may on the hearing of the judgment summons admit the same as the evidence of the person by whom the affidavit is made, if it shall think fit.

16. Upon the issue of a judgment summons against a party upon an order or judgment of the Court issuing the judgment summons, the bailiff of such Court shall return into Court any warrant of execution against the goods of such party which may have been issued in the action.

17. Where a judgment summons is heard in a Court other than that in which the order or judgment was obtained, and an order is made altering the terms of the order or judgment, all payments under the new order shall be made into, and execution or other process shall be issued by, the Court which has so altered the order.

18. Where a certified copy of a judgment is obtained from the registrar of a County Court, he shall make on the minute of the judgment a memorandum of having given such certificate, and no warrant of execution against the goods or judgment summons upon such judgment shall issue from such Court, unless it be shown to the satisfaction of the Court or registrar that no order has been made against the execution debtor in any other Court.

[Then come the new rules of January, 1884, at present numbered in the order, as under:—]

1. Where a judgment debtor shall upon the return day of a judgment summons satisfy the Court that a receiving order has been made for the protection of his estate, or that he has been adjudicated bankrupt, and that the debt was provable in the bankruptcy, or that, in respect of the debt, resolutions have been duly registered under the 125th or 126th sections of the "Bankruptcy Act, 1869," or that an order has been made for the administration of his estate under s. 122 of the "Bankruptcy Act, 1883," no order of commitment shall be made.

2. Where a judgment debtor shall, after the making of an order of commitment against him, file, in the Court in which the order was made, an affidavit according to the form in the Appendix, stating that a receiving order has been made for the protection of his estate, or that he has been adjudicated a bankrupt, and that the debt was provable in the bankruptcy, or that in respect of the judgment debt resolutions have been duly registered under either of the before-mentioned sections of the "Bankruptcy Act, 1869," or that an order for the administration of his estate has been made under s. 122 of the "Bankruptcy Act, 1883," annexing to such affidavit in such last-mentioned case a certificate of the registrar of the Court in which such last-mentioned order shall have been so made, and shall forthwith, upon such affidavit being so filed, give notice to the judgment creditor of the filing thereof, such order of commitment shall not issue, but if issued and not executed, it shall be recalled.

3. Where a judgment debtor is arrested, he may file in the County

Court within the district of which he is in custody, an affidavit as mentioned in the last preceding rule, and give the notice to the judgment creditor thereof, as therein required, and thereupon the judgment debtor shall be discharged out of custody upon the certificate of the registrar of that Court.

4. Where an order for the administration of a debtor's estate has been made under the provisions of s. 122 of the "Bankruptcy Act, 1883," the registrar of the Court in which the order shall have been so made, shall, upon the application of the debtor, issue to him a certificate according to the form in the Appendix.

[The remaining rules are those of the original order, and numbered as in that order :—]

22. An order of commitment made upon the "Debtors Act, 1869," shall be according to the form in the Schedule, and shall, on whatever day it may be issued from the registrar's office, bear date on the day on which the order for commitment was made.

22a. Where an order of commitment has not been issued before the expiration of one year from its date, the party requiring it to be issued shall file an affidavit setting forth reasons why it would have been useless to have had the order of commitment issued before; and where such reasons shall appear satisfactory to the registrar, the order of commitment shall then be issued and shall be in force for one year only from the day on which it was issued from the registrar's office, unless at any time before the expiration of such last-mentioned year the judge may think fit to extend the time during which the said order is to be in force.

If the reasons stated in the affidavit be considered by the registrar insufficient, he shall refuse to issue the order of commitment, and refer the applicant to the Court for its directions, and the judge shall make such order in the matter as he shall think right.

22b. The registrar shall on an order of commitment issued under the last rule state the day of the month and year upon which such order shall have been issued from his office.

23. When an order of commitment for non-payment of money is issued, the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the bailiff the amount indorsed on the order as that, on the payment of which, he may be discharged; and on receiving such amount the bailiff shall discharge the defendant, and shall within twenty-four hours after receiving such amount pay over the same to the registrar of the County Court of which he is an officer.

24. The sum indorsed on the order of commitment as that upon payment of which the prisoner may be discharged, may be paid into the Court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is, or into the Foreign Court into which it has been re-issued under s. 104 of the "County Courts Act, 1846." Where it is paid to the registrar, he shall sign and seal a

certificate of such payment, and upon receiving such certificate by post or otherwise, the gaoler, in whose custody the prisoner shall then be, shall forthwith discharge such prisoner. And where it is paid to the gaoler, he shall, upon payment to him of such amount, together with costs sufficient to pay for transmitting such amount to the Court under the order of which the prisoner was committed, by post office order, sign a certificate of such payment, and discharge the prisoner, and such costs of transmission shall be part of the prescribed costs.

25. A certificate of payment by a prisoner shall be according to the form in the Schedule.

26. If a judgment debtor appears at the return-day, but the judgment creditor fails to appear, the judge may award costs to the judgment debtor.

27. All costs incurred by the plaintiff in endeavouring to procure or enforce an order or judgment shall be deemed to be due in pursuance of such order or judgment under section 5 of the "Debtors Act, 1869," unless the judge shall otherwise order.

GENERAL RULE.

Additional to the Bankruptcy Rules, 1883, made pursuant to Section 127 of the Bankruptcy Act, 1883.

Any matter or application pending before a Registrar which, under the Bankruptcy Act, 1883, or the Bankruptcy Rules for the time being in force under that Act, a registrar has jurisdiction to determine shall be adjourned to be heard before the Judge, if the Judge shall, either specially or by any general direction applicable to the particular case, so direct.

This Rule shall come into operation from and immediately after the 31st day of December, 1883.

Dated the 31st day of December, 1883.

(Signed) SELBORNE, C.
J. CHAMBERLAIN,
President of the Board of Trade.

LIST OF FORMS.

Number.

1. General Title (High Court).
2. General Title (County Court).
3. Declaration of Inability to pay.
4. Debtor's Petition.
5. Request for Issue of Bankruptcy Notice.
6. Bankruptcy Notice.
7. Affidavit of Service of Bankruptcy Notice.
8. Affidavit on Application to set aside Bankruptcy Notice.
9. Orders setting aside Bankruptcy Notice.
10. Creditor's Petition.
11. Creditor's Petition for Administration of Estate of deceased Debtor under Section 125.
12. Affidavit of Truth of Statements in Petition.
13. Affidavit of Truth of Statements in Petitions (General Deponents).
14. Application for Interim Receiver.
15. Affidavit of Service of Petition.
16. Substituted Service of Petition (Notice in "Gazette").
17. Notice by Debtors of Intention to oppose Petition.
18. Order to stay Proceedings on Petition.
19. Bond on stay of Proceedings.
20. Notice of Sureties.
21. Affidavit of Justification.
22. Certificate of Judge for transfer of Proceedings.
23. Order of transfer of Proceedings.
24. Adjournment of Petition.
25. Dismissal of Petition.
26. Dismissal of Petition when Proceedings stayed.
27. Order restraining Action.
28. Receiving Order on Debtor's Petition.
29. Receiving Order on Creditor's Petition.
30. Notice of Receiving Order (Local Paper).
31. Order for Administration of Estate of Deceased Debtor.
32. Transfer of Proceedings under Section 125.
33. Application for Summary Administration.
34. Order for Summary Administration.

Number.

35. Statements of Affairs.
36. Memorandum of Public Examination.
37. Order that Examination is concluded.
38. Order of Adjudication.
39. Notice of Adjudication (Local Paper).
40. Application to annul Adjudication.
41. Order annulling Adjudication.
42. Application for Order of Discharge.
43. Certificate of Number of Creditors.
44. Notice to Creditors of Application of Discharge
45. Order of Discharge.
46. Certificate of Removal of Disqualifications.
47. Order Sanctioning Composition or Scheme.
48. Application to enforce Provision in Corporation.
49. Affidavit in support of Application.
50. Order for Enforcement.
51. Certificate of Composition or Scheme.
52. Affidavit of Proof.
53. Affidavit of Proof by Agent of Company.
54. General Proxy.
55. Special Proxy.
56. Voting Letter under Section 18.
57. Notice to Creditors of First Meeting.
58. Notice to Debtor to attend First Meeting.
59. Minutes of Proceedings at First Meeting.
60. List of Creditors to be used at every Meeting.
61. Order of Court for Meeting.
62. Notice of Meeting (General Form).
63. Notice concerning Second Meeting to confirm Composition or Scheme.
64. Resolution at Second Meeting.
65. Notice to Creditors of Application to Court to sanction Composition.
66. Notice to Creditors of Meeting to name Trustee.
67. Notice of Meeting to be held to appoint new Trustee.
68. Minutes of Meeting for receiving Trustee's Resignation.
69. Report of Appointment of Trustee.
70. Request by Creditor to Board to notify Objection to Trustee, High Court.
71. Certificate of Appointment of Trustee.
72. Bond of Trustee.
73. Report of Appointment of Trustee to fill Vacancy.
74. Application by Trustee to Court for Directions.
75. Order on Application for Directions.
76. Notice of Intention to disclaim Lease.
77. Notice of Intention to declare Dividend.
78. Notice of Intention to declare Fund Dividend.
79. Statement to accompany Notice of Dividend.

Number.

80. Notice of Dividend.
81. Application for Order to pay Dividend withheld.
82. Certificate by Committee of Inspection as to audit of Trustee's Accounts.
83. Affidavit verifying Trustee's Account.
84. Annual Return by Trustee.
85. Trustee's Trading Account.
86. Profit and Loss Account.
87. Affidavit verifying Trading Account.
88. Notice to Bankrupt under Section 53.
89. Order setting aside Pay under Section 53 (1).
90. Order setting aside Income, &c., under Section 53 (3).
91. Application to Board for Account at Local Bank.
92. Order of Board for Local Account.
93. Notice to Creditors of Intention to apply for Release.
94. Application for release to Board of Trade.
95. Request to deliver Bill for Taxation.
96. Allocation.
97. Form of Books to be kept by Taxing Officer.
98. Form of Return by Taxing Officer.
99. Admission of Debt by Debtor of Bankrupt.
100. Order to Pay admitted Debt.
101. Search Warrant.
102. Warrant of Service.
103. Warrant against Debtor about to quit England, &c.
104. Subpoena (High Court).
105. Subpoena Duces Tecum (High Court).
106. Subpoena or Summons to Witness in County Court.
107. Summons under Section 27.
108. Application by Trustee for Committal of Bankrupt or other Person.
109. Affidavit in support of Application for Committal of Debtor for Contempt of Court under Section 24.
110. Affidavit of Trustee under Section 50 (6).
111. Notice of Application for Committal under Sections 18, 23.
112. Order of Committal under Sections 18 or 23.
113. Notice of Application for Committal under Section 24.
114. Affidavit of Person Interested in a Composition for Committal.
115. Affidavit for immediate Committal under Section 102 (6).
116. Notice of Application for Committal under Section 50 (6).
117. Order of Committal under Section 24.
118. Order of Committal under Section 50 (6).
119. Warrant of Committal for Contempt.
120. Warrant to apprehend a Person summoned under Section 24.
121. Order for Discharge from Custody on Contempt.
122. Order to Postmaster-General under Section 26.
123. Certificate to Speaker of the House of Commons under Sect. 33.
124. Issues of Fact for Trial by Jury (High Court).

Number

- 125. Bankruptcy Notice Book.
- 126. Bankruptcy Register to be kept by Registrar.
- 127. Bankruptcy Notices for "London Gazette."
- 128. Memorandum of Advertisement or Gazetting.

APPENDIX OF FORMS.

[NOTE.—*The notes appended to these forms are not part of the forms themselves, but are for the guidance of parties using the forms. In all forms requiring verification, the deponent may, at his option, substitute a statutory declaration for an oath.*]

FORM No. 1.

General Title (High Court).

In the High Court of Justice.

In Bankruptcy.

No. of 188 .

Re [James Brown].

[Ex parte (here insert "the Debtor," or "J.S. a creditor," or "the Official Receiver," or "the Trustee").]

No. 2.

General Title (County Court).

In the County Court of

In Bankruptcy.

holden at

No. of 188 .

Re

[Ex parte]

No. 3.

Declaration of Inability to Pay.

(Title.)

I, A.B. [*name and description of debtor*], residing at [*and carrying on business at*], hereby declare that I am unable to pay my debts.

Dated 188 .

(Signature)

A.B.

Signed by the debtor in my presence.

Signature of Witness.

Address.

Description.

Filed the day of 188 .

NOTE.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

No. 4.

Debtor's Petition.

(Title.)

I, [name, address, and description of debtor] having for the greater part of the past six months resided at [or carried on business at] within the district of the Court [or, as the case may be, following the terms of sect. 95] and being unable to pay my debts, hereby petition the Court that a receiving order be made in respect of my estate [and that I may be adjudged Bankrupt.

Dated 188 .

(Signature)

Signed by the debtor in my presence.

Signature of witness.

Address.

Description.

Filed the day of 188 .

NOTE.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

No. 5.

Request for Issue of Bankruptcy Notice.

In the [High Court of Justice].

In Bankruptcy.

1. I, C. D., of , hereby request that a bankruptcy notice be issued by this Court against [here insert name, description, and address of judgment debtor].

2. The said A. B. has for the greater part of the past six months resided at [or carried on business at] within the district of this Court [or, as the case may be, following the terms of section 95 of the Act].

3. I produce an office copy (hereto annexed) of a final judgment against the said A. B. obtained by [me] in the Court on this day of .

4. Execution on the said judgment has not been stayed.

Dated

C. D., judgment creditor

or,

[E. F., solicitor for the judgment creditor.]

NOTE.—Where the debtor resides at a place other than his place of business both addresses should be inserted.

No. 6.

Bankruptcy Notice.

(Title.)

To *A.B.* [or *A.B. & Co.*] of

Take notice that within [seven] days after service of this notice on you, excluding the day of such service, you must pay to *C.D.* of , the sum of £ , claimed by him as being the amount due on a final judgment obtained by him against you in the Court, dated ; whereon execution has not been stayed, or you must secure or compound for the said sum, to [his] satisfaction or the satisfaction of the Court; or you must satisfy the Court that you have a counter-claim, set-off, or cross-demand against *C.D.* which equals or exceeds the sum claimed by him, and which you could not set up in the action in which the judgment was obtained.

Dated

By the Court,
Registrar.*Indorsement on Notice.**You are specially to note,—*

That the consequences of not complying with the requisitions on this notice, are that you will have committed an act of bankruptcy, of which bankruptcy proceedings may be taken against you.

If, however, you have a counter-claim, set-off, or cross demand which equals or exceeds the amount claimed by *C.D.* in respect of the judgment, and which you could not set up in the action in which the said judgment was obtained, you must within days apply to the Court to set aside this notice, by filing with the Registrar an affidavit to the above effect.

[Name and address of solicitor suing out the notice] or

This notice is sued out by [*C.D.*] in person.

No. 7.

Affidavit of Service of Bankruptcy Notice.

(Title.)

In the matter of a bankruptcy notice, issued

I, *L.M.*, of make oath and say:—

1. That I did, on the day of 188, serve the above-mentioned *A.B.* with a copy of the above-mentioned notice, duly sealed with the seal of the Court by delivering the same personally to the said *A.B.*

2. A sealed copy of the said notice marked A is hereunto annexed.
Sworn at, &c.

L.M.

No. 8.

Affidavit on Application to set aside Bankruptcy Notice.

(Title.)

I. A. B., of _____ make oath and say :—

1. That I was, on the _____ day of _____, served with the bankruptcy notice hereunto annexed [or, *describe the notice*].

That I have satisfied the judgment debt claimed by C. D. by [state nature of satisfaction].

Or,

2. That I have a counter-claim [or set-off or cross-demand] for £ _____, being a sum equal to [or exceeding] the claim of the said C. D. in respect of [here state grounds of counter-claim].

3. That I could not have set up the said counter-claim [or, as the case may be] in the action in which the said judgment was obtained against me.

Sworn, &c.

No. 9.

Orders setting aside Bankruptcy Notice.

(Title.)

In the matter of a Bankruptcy Notice issued—

Upon the application of A. B. to set aside this notice, and upon reading the affidavit of A. B. [and upon hearing C. D. (if present)], it is ordered that this notice be set aside, and that C. D. [or, as the case may be] pay to A. B. the sum of £ _____ for costs [or, the costs of this matter].

Dated _____

By the Court,
Registrar.

Or,

(Title.)

In the matter of a Bankruptcy Notice issued—

Upon the application of A. B. to set aside this notice, and upon reading _____ and hearing _____, and upon the said A. B. having entered into a bond in the penal sum of [the amount of the alleged debt and probable costs or such other sum as the Court may direct], with such two sufficient sureties as the Court [or, C. D.] has approved [or, having deposited in Court the sum of £ _____], as security for the amount claimed by the notice, the condition of the bond [or deposit] being [here insert condition], it is ordered, &c.

Dated _____

By the Court,
Registrar.

No 10.

*Creditor's Petition.**(Title.)*

I, *C.D.*, of [or we, *C.D.*, of , and *E.F.* of] hereby petition the Court that a receiving order be made in respect of the estate of [here insert name, address, and description of debtor].

1. That the said *A.B.* has for the greater part of six months next preceding the presentation of this petition resided [or carried on business] at within the district of this Court [or, as the case may be, following the terms of section 95].

2. That the said *A.B.* is justly and truly indebted to me [or us in the aggregate] in the sum of £ [set out amount of debt or debts, and the consideration].

3 That I [or we] do not, nor does any person on [my] behalf hold any security on the said debtor's estate, or any part thereof, for the payment of the said sum.

Or,

That I hold security for the payment of [or part of] the said sum [but that I will give up such security for the benefit of the creditors of *A.B.* in the event of his being adjudged bankrupt] [or and I estimate the value of such security at the sum of £].

Or,

That I, *C.D.*, one of your petitioners, hold security for the payment of, &c.

That I, *E.F.*, another of your petitioners, hold security for the payment of, &c.

4. That *A.B.* within three months before the date of the presentation of this petition has committed the following act [or acts] of bankruptcy, namely, [here set out separately the acts of bankruptcy].

(Signed) *C.D.*
E.F.

[Signed by the petitioner in
my presence.]

*Signature of witness.**Address.**Description.*

NOTE.—If there be more than one petitioner, and they do not sign together, the signature of each must be separately attested, *e.g.*, "Signed by the petitioner *E.F.* in my presence." If the petition be signed by a firm, the partner signing should add also his own signature, *e.g.*, "*A.S. & Co.* by *J.S.*, a partner in the said firm." If

the debtor resides at any place other than the place where he carries on business both addresses should be inserted.

Indorsement.

This petition having been presented to the Court on the day of 188 , it is ordered that this petition shall be heard at on the day of 188 , at o'clock in the noon.

And, you, the said *A.B.*, are to take notice that if you intend to dispute the truth of any of the statements contained in the petition you must file with the Registrar of this Court a notice showing the grounds upon which you intend to dispute the same, and send by post a copy of the notice to the petitioner [three] days before the date fixed for the hearing.

No. 11.

Creditor's Petition for Administration of Estate of Deceased Debtor under Section 125.

(Title.)

I, *C.D.*, of [or we, *C.D.*, of , and *E.F.*, of], hereby petition the Court that an order be made for the administration in bankruptcy of the estate of the late [here insert name and description of deceased debtor], who died on the day of 188 , and say:—

1. That the said *A.B.* for the greater part of the six months next preceding his decease resided (or carried on business) at within the district of this Court [or, as the case may be, following the terms of section 95].

2. That the estate of the said *A.B.* is justly and truly indebted to me [or us in the aggregate] in the sum of £ [set out amount of debt or debts and the consideration].

3. That [I] do not nor does any person on [my] behalf hold any security on the said deceased debtor's estate, or on any part thereof, &c. [or, as in Form No. 10. *Creditor's Petition*].

4. That *A.B.* within three months next before the said date of his decease committed the following act [or acts] of bankruptcy, namely, [here set out separately the acts of bankruptcy].

Or,

That the will of the said *A.B.* [or, as the case may be] was on the day of 188 proved by *J.S.* of , and *G.H.*, of , who consent to this petition.

Or,

That letters of administration [*or, as the case may be*] were on the day of 188 granted to *J.S.*, of *G.H.*, of , and that the estate of the said *A.B.* is [according to my information and belief] insufficient to pay his debts.

(Signed) *C.D.*

[Signed by the petitioner in my presence.]

E.F.

Signature of witness

Address.

Description.

Indorsement.

This petition having been presented to the Court on the day of 188, it is ordered that this petition shall be heard at on the day of 188, at o'clock in the noon.

If you, the said *J.S.* or *G.H.*, intend to dispute the matter of any the statements contained in the petition, you must file with the Registrar of this Court a notice showing the grounds upon which you intend to dispute the same.

No 12.

Affidavit of Truth of Statements in Petition.

(Title.)

I, the petitioner named in the petition hereunto annexed make oath [*if the petitioner declare or affirm, alter the form accordingly*] and say:—

1. That the several statements in the said petition are within my own knowledge true.

Sworn at, &c.

C.D.

NOTE.—If the petitioner cannot depose that the truth of all the several statements in the petition is within his own knowledge he must set forth the statements the truth of which he can depose to, and file a further affidavit by some person or persons who can depose to the truth of the remaining statements.

No. 13.

Affidavit of Truth of Statements in Petition.

(Title.)

We, *C.D.*, *E.F.*, *G.H.*, &c., the petitioners named in the petition hereunto annexed, severally make oath and say:—

And first I the said *C.D.* for myself say—

1. That *A.B.* is justly and truly indebted to me in the sum of pounds, as stated in the said before-mentioned petition.
2. That the said *A.B.* committed the act of bankruptcy stated to have been committed by him in the said before-mentioned petition.
And I the said *E.F.* for myself say—
3. That *A.B.* is justly and truly indebted to me in the sum of pounds, as stated in the said before-mentioned petition.
And I the said *G.H.* for myself say—
4. That *A.B.* is, &c.

C.D.
E.F.
G.H.

Sworn by the deponents *C.D.*, *E.F.*,
and *G.H.*, &c.

See note to last Form.

No. 14.

Application for Interim Receiver.

(Title.)

I, *C.D.*, of _____, do, on the grounds set forth in the annexed affidavit, apply to the Court to appoint the official receiver of this Court as interim receiver of the property of the said *A.B.*, and [here insert any special directions [to] the receiver that may be desired].

(Signed) *C.D.*

Order thereon.

Upon reading this application and the affidavit therein referred to, and hearing _____ it is ordered that upon a deposit of £ _____ being lodged by the applicant in Court the official receiver of this Court be thereupon constituted interim receiver of the property of the said *A.B.*, and [here insert directions, if any].

By the Court,

Registrar.

Dated _____

No. 15.

Affidavit of Service of Petition.

(Title.)

In the matter of a petition dated _____

I, *L.M.*, of _____, make oath and say :—

1. That I did, on the _____ day of _____ 188 _____, serve the above-mentioned *A.B.* with a copy of the above-mentioned petition, duly sealed with the seal of the Court, by delivering the same personally to the said *A.B.*

2. A sealed copy of the said petition is hereunto annexed.

Sworn at, &c.

L.M., Bailiff, creditor,
solicitor or his clerk.

No. 16.

Substituted Service of Petition. Notice in Gazette.

In the [High Court of Justice].

In bankruptcy.

In the matter of a bankruptcy petition filed the day of

To A. B. of

Take notice, that a bankruptcy petition has been presented against you to this Court by C. D. of , and the Court has ordered that the publication of this notice in the London Gazette and in the newspapers, shall be deemed to be service of the petition upon you; and further take notice that the said petition will be heard at this Court on the day of , at o'clock in the noon, on which day you are required to appear, and if you do not appear the Court may make a receiving order against you in your absence.

The petition can be inspected by you on application at this Court.

Dated

Registrar.

No. 17.

Notice by Debtor of intention to oppose Petition.

(Title.)

In the matter of a bankruptcy petition presented against me on the day of 188 by C. D. of [or and E. F. of G. H. of &c.]

I, the above A. B., do hereby give you notice that I intend to oppose the making of a receiving order as prayed, and that I intend to dispute the petitioning creditor's debt [or the act of bankruptcy, or as the case may be].

Dated this day of 188 .
To C. D. of , and to , A. B.,
and to the Registrar of the said Court.

No. 18.

Order to stay Proceedings on Petition.

(Title.)

In the matter of a bankruptcy petition against A. B.
of .

Upon the hearing of this petition this day, and the said A. B. appearing and denying that he is indebted to the petitioner [where petition presented by more than one creditor add the name of the creditor whose debt is denied] in the sum stated in the petition [or that he is indebted to the petitioner in a sum of a less

amount than fifty pounds], [or that he is indebted to *C.D.*, one of the petitioners, in a sum less than the sum stated to be due from him in the petition], it is ordered that the said *A.B.* shall within days enter into a bond in the penal sum of [*the amount of the alleged debt and probable costs, or such other sum as the Court may direct*] with such two sufficient sureties as the Court shall approve of to pay [or deposit with the Registrar the sum of as security for the payment of] such sum or sums as shall be recovered against the said *A.B.* by *C.D.* the petitioner [or one of the petitioners] in any proceeding taken or continued by him against the said *A.B.*, together with such costs as shall be given by the Court in which the proceedings are had.

And it is further ordered, that upon the said *A.B.* entering into the bond aforesaid, all proceedings on this petition shall be stayed until after the Court in which the proceedings shall be taken shall have come to a decision thereon.

Dated

By the Court,
Registrar.

No. 19

Bond on stay of Proceedings, &c.

(Title.)

Know all men by these presents, that we *A.B.* of, &c., and *C.D.* of, &c., and *E.F.* of, &c., are jointly and severally held and firmly bound to *L.M.* of, &c., in pounds to be paid to the said *L.M.*, or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each and every of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight hundred and

WHEREAS a bankruptcy petition against the said *A.B.* having been presented to the High Court [or County Court, &c.], he did appear at the hearing of the said petition and deny that he was indebted to the petitioner [or to one or more of the petitioners], [or alleged that he was indebted to the petitioner in the sum of pounds only].

[or Whereas the said *A.B.* having been duly served with a bankruptcy notice by *L.M.* of in accordance with provisions of the Bankruptcy Act, 1883, issued out of the High Court [or the County Court of holden at], applied to the said Court to dismiss such notice on the ground that he was not indebted to the said *L.M.* [or that he was not indebted to him to such an amount as would support a petition in bankruptcy].

Now, therefore, the condition of this obligation is such that if the above-bounden *A.B.*, or the said *C.D.* or *E.F.*, shall on demand well and truly pay or cause to be paid to *L.M.*, his attorney or agent, such

sum or sums as shall be recovered against the said *A. B.* by any proceedings taken or continued within twenty-one days from the date hereof in any competent Court by the said *L. M.* for the payment of the debt claimed by him in the said petition, together with such costs as shall be given to the said *L. M.* by such Court, this obligation shall be void, otherwise shall remain in full force.

A. B. (L.S.)
C. D. (L.S.)
E. F. (L.S.)

Signed, sealed, and delivered by the above-
in the presence of bounden

NOTE.—If a deposit of money be made the memorandum should follow the terms of the conditions of the bond. This form may be adapted to other cases.

No. 20.

Notice of Sureties.

(Title.)

In the matter of a bankruptcy petition [or In the matter of a bankruptcy notice by *C. D.*] of

Take notice that the sureties whom I propose as my security in the above matter [*here state the proceeding which has rendered the sureties necessary*] are [*here state the full names and descriptions of the sureties, and their residences for the last six months, therein mentioning the county or city, places, streets, and numbers, if any*].

Dated this day of 188 .

A. B.

To the Registrar of the Court
and to *L. M.* of

No. 21.

Affidavit of Justification.

(Title.)

In the matter of a bankruptcy petition against *A. B.* of
[or In the matter of a bankruptcy notice by *L. M.* against *A. B.* of
].

I, *E. F.*, of , one of the sureties for make oath and say:—

1. That I am a householder [*or, as the case may be*], residing [*describing particularly the county or city, the street or place, and the number of the house, if any*].

2. That I am worth property to the amount of £ [*the amount required*] over and above what will pay my just debts [*if security in any other action or for any other purpose, add, and every other sum for which I am now security*].

3. That I am not bail or security in any other matter, action, or proceeding, or for any other person [or if security in any other action or actions, add, except for *C.D.*, at the suit of *E.F.*, in the Court of _____ in the sum of £ _____; for *G.H.*, at the suit of *I.K.* in the Court of _____ in the sum of £ _____]
[specifying the several actions with the Courts in which they are brought and the sums in which he has become bound].

4. That my property, to the amount of the said sum of £ _____ [and if security in any other action, &c., over and above all other sums for which I am now security as aforesaid], consists of [here specify the nature and value of the property in respect of which the deponent proposes to become bondsman as follows, stock in trade, in my business of _____ carried on by me at _____ of the value of £ _____, of good book debts owing to me to the amount of £ _____, of furniture in my house at _____ of the value of £ _____, of a freehold [or leasehold] farm of the value of £ _____ situate at _____ occupied by _____, or of a dwelling-house of the value of £ _____ situate at _____ occupied by _____, or of other property, particularising each description of property, with the value thereof].

5. That I have for the last six months resided at _____ [describing the place of such residence, or if he has had more than one residence during that period, state it in the same manner as above directed].

Sworn at, &c.

E.F.

No. 22.

Certificate of Judge for Transfer of Proceedings.

(Title.)

I hereby certify for the following reasons that proceedings in this matter would in my opinion be more advantageously conducted in the High Court of Justice [or the County Court at _____].
(here set out reasons.)

Dated _____

F.H., Judge.

No. 23.

Order for transfer of proceedings.

(Title.)

Whereas it hath been proved to the satisfaction of this Court that a bankruptcy petition against *A.B.* of _____ has been presented to this Court, and that another petition has been presented against the said *A.B.* to the _____ Court, it is ordered that the said first-mentioned petition be transferred to the _____ Court.

Dated _____

By the Court,
Registrar.

No. 24.

Adjournment of Petition.

(Title.)

Upon the hearing of the petition this day, it is ordered that the further hearing of this petition be adjourned until the day of 188 , at o'clock in the noon.

Dated .

By the Court,
Registrar.

No. 25.

Dismissal of Petition.

(Title.)

In the matter of a bankruptcy petition filed the [date].

Upon the hearing of this petition this day, and upon reading and hearing it is ordered that this petition be dismissed [and that the petitioner do pay to the said A.B. the taxed costs thereof].

Dated .

By the Court,
Registrar.

No. 26.

Dismissal of Petition upon which Proceedings are stayed where a Receiving Order has been made on a subsequent Petition.

(Title.)

Whereas a receiving order has been made against A.B. upon a petition presented to this Court by O.P. of , it is ordered that the bankruptcy petition against the said A.B., presented to this Court by C.D. of , the proceedings on which were stayed by order of Court of the day of 188 , be dismissed [add terms if any].

Dated .

By the Court,
Registrar.

No. 27.

Restraining Action, &c., before receiving Order.

(Title.)

Upon the application of and upon reading it is ordered that L.M. of shall be restrained from taking any further proceedings in the action brought by him [or upon the judgment recovered or obtained by him] against the said A.B. in [here state the Court in which proceedings are] [or it is ordered that the proceedings in the action [or suit] brought by him against the said A.B. in [here

state the Court in which proceedings are] may be proceeded with on
[here insert the terms fixed by the Court].

Dated

By the Court,
 Registrar.

No. 28.

Receiving Order on Debtor's Petition.

(Title.)

On the petition of the Debtor himself, filed the [1st January 1884]
 the Official Receiver [or Mr. A.B., an Official Receiver] of this Court
 is hereby constituted receiver of the estate of *[here insert name,
 address, and description of debtor].*

Dated

By the Court,
 Registrar.

No. 29.

Receiving Order on Creditor's Petition.

(Title.)

On the Petition of J. S., of , a creditor, filed the *[insert
 date]* and on reading—and hearing—the Official Receiver [or Mr. A.
 B., an Official Receiver] of this Court, is hereby constituted receiver
 of the estate of *[insert name, address, and description of debtor].*

Dated

By the Court,
 Registrar.

No. 30.

Notice of Receiving Order, &c. (Local Paper).

In Bankruptcy. Notice is hereby given that on a petition dated
 , a receiving order against of A. B. *[here
 insert name, address, and description of debtor]* was made by the
 (High Court of Justice or County Court of , holden at
) on the day of 188 .

G. H., Official Receiver.

No. 31.

*Order for Administration in Bankruptcy of Estate of deceased
 Debtor.*

(Title.)

Upon the petition of C.D., dated , and upon reading and
 hearing , it is ordered that the estate of A.B., of
 , who died insolvent, be administered in bankruptcy, and that the

official receiver [or Mr. G.H., an official receiver,] of this Court be the trustee, and that the costs of this application be .

Dated .

By the Court,
Registrar.

No. 32.

Order for Administration of Estate of deceased Debtor on transfer of Proceedings under Section 125 (4).

(Title.)

Whereas proceedings for the administration of the estate of A.B., late of , deceased, were commenced in the [here set out Court in which proceedings commenced] on the day of 18 .

And whereas that Court did on the day of 18 transfer such proceedings to this Court.

It is hereby ordered that the estate of the said A.B., deceased, shall be administered according to the law of bankruptcy pursuant to section 125 of the Act, and that G.H. the official receiver of this, Court, be the trustee of the property of the said A.B., deceased.

Dated .

By the Court,
Registrar.

No. 33.

Application for Summary Administration under Section 121.

(Title.)

I, G.H., the official receiver in the above matter, hereby report to the Court that the property of the debtor is not likely to exceed in value 300*l.*, and I apply that the Court may order the estate to be administered in a summary manner pursuant to section 121 of the Act.

Dated .

G.H., Official Receiver.

No. 34.

Order for Summary Administration.

(Title.)

Upon the application of and reading it is ordered that the estate of the above-named debtor be administered in a summary manner pursuant to section 121 of the Act.

Dated .

By the Court,
Registrar.

No. 35.

STATEMENT OF AFFAIRS.

(Title.)

N.B.—You are required to fill up carefully and accurately the several forms, and such forms, when filled up, will constitute your statement of affairs.

When completed such statement must be verified by oath or declaration.

Gross Liabilities.		Ex-pected to Rank.		
£ s. d.		£ s. d.		£ s. d.
	Unsecured creditors as per list (A)		Stock in trade, &c. (state name of place), as per list (G.), ...	
	Creditors fully secured as per list (B)	£ s. d.	Estimated cost £	
	Less estimated value of securities... ..		Estimated to realize...	
	Surplus to contra	£	Book debts, as per list (H.)	
	Creditors partly secured as per list (C)	£ s. d.	Good	
	Less estimated value of securities... ..		Doubtful	£ s. d.
	Other liabilities, as per list (D)		Bad	
	Of which it is expected will rank against the estate for dividend ...		Estimated to produce	
	Liabilities on bills other than debtor's own acceptances, as per list (F) £		Cash at bankers	£ s. d.
	Of which it is expected will rank against the estate for dividend ...		Cash in hand	
			Bills of exchange or other similar securities, as per list (J.) ...	
			Estimated to produce	
			Household furniture, &c., estimated to produce	
			Other property as per list (G.) estimated to produce	

Gross Liabilities.		Expected to Rank.		
£ s. d.		£ s. d.		£ s. d.
	Preferential creditors for rent, rates, taxes, wages, &c. ... per list (E.) ...			Surplus from securities in the hands of creditors fully secured (per contra)
	Deducted contra ... £			Deduct preferential creditors for rent, rates, taxes, wages, &c. (per contra) ...
				Deficiency as explained in statement (K.) ...
		£		£

The above statement and the several lists hereunto annexed are to the best of my knowledge and belief full, true, and complete.

Sworn, &c.

LIST "A."—UNSECURED CREDITORS.

The names to be arranged in alphabetical order and numbered consecutively, creditors for £10 and upwards being placed first.

No.	Name.	Address and Occupation.	Amount of Debt.	Date when Contracted	Consideration.

LIST "B."—CREDITORS FULLY SECURED.

No.	Name of Creditor.	Address and Occupation.	Amount of Debt.	Date when Contracted.	Consideration.	Particulars of Security.	Date when given.	Estimated Value of Security.	Estimated Surplus from Security.
-----	-------------------	-------------------------	-----------------	-----------------------	----------------	--------------------------	------------------	------------------------------	----------------------------------

LIST "C."—CREDITORS PARTLY SECURED.

No.	Name of Creditor.	Address and Occupation.	Amount of Debt.	Date when Contracted.	Consideration.	Particulars of Security.	Date when given.	Estimated Value of Security.	Balance of Debt Unsecured.

LIST "D."—LIABILITIES.

Full particulars of all Liabilities not otherwise Scheduled to be given here.

No.	Name of Creditor or Claimant.	Address and Occupation.	Amount of Liability or Claim.	Date when Liability incurred.	Nature of Liability.

LIST "E."—PREFERENTIAL CREDITORS FOR RENT, RATES, TAXES, AND WAGES.

No.	Name of Creditor.	Address and Occupation.	Nature of Claim.	Period during which Claim accrued, due.	Date when due.	Amount of Claim.	Amount payable in full.	Difference ranking for Dividend.

LIST "F."—LIABILITIES OF DEBTOR ON BILLS OTHER THAN HIS OWN ACCEPTANCES.

No.	Acceptor's Name and Address.	Date when due.	Amount.	Holder's Name and Address (if known).	Amount expected to rank against Estate for Dividend.

LIST "G."—PROPERTY.

Full particulars of every description of property in possession and in reversion as defined by Section 168 of the Bankruptcy Act, 1883, not included in any other list, are to be set forth in this list.

Full Statement and Nature of Property.	Estimated to produce.
	£ s. d.
Stock in Trade at _____	
Taken at cost (or estimated cost) £ : : ...	
Furniture, fixtures, and fittings on trade premises	
Household furniture and effects	
OTHER PROPERTY (state particulars)	

LIST "H."—DEBTS DUE TO THE ESTATE.

No.	Name of Debtor.	Residence and Occupation.	Amount of Debt.			When Contracted.	Estimated to produce.	Particulars of any Securities held for debt.
			Good.	Doubtful.	Bad.			

LIST "J."—BILLS OF EXCHANGE, PROMISSORY NOTES, &c., AVAILABLE AS ASSETS.

No.	Name of Acceptor of Bill or Maker of Note.	Address, &c.	Amount of Bill or Note.	Date when due.	Estimated to produce.	Particulars of any Property held as Security for Payment of Bill or Note.

LIST "K."—DEFICIENCY ACCOUNT.

This account must contain explanations in detail of the losses, expenses, or other causes of the difference between the amount of the indebtedness and of the assets.

	£ s. d.	£ s. d.
Total... ..		

N.B.—The total should correspond with the amount of the deficiency shown on the face of the statement of affairs.

No. 36.

Memorandum of Public Examination of Debtor.

(Title.)

Memorandum.—That I the above-named debtor, being sworn and examined, upon my oath say, that the statement of affairs filed on the day of 188, with the proceedings in the above matter, containing sheets of paper, the first sheet whereof is marked with the letter A, is true, and that the said statement of affairs contains and is a full and true

disclosure and discovery of all my estate and effects both real and personal whatsoever and wheresoever.

And I further say, that the notes of my public examination marked B and appended hereto, were read over to me, and are correct.

And I further say, that at the time of this my examination, I have delivered up to the official receiver [or the trustee of my property] all property, estate and effects, and all books, papers, and writings relating thereto.

And I further say, that I have not removed, concealed, embezzled, or destroyed any part of my estate, real or personal, nor any books of accounts, papers, or writings relating thereto, with an intent to defraud my creditors.

[Here insert any special matter.]

A.B.

No. 37.

Order of Court that Examination is concluded.

(Title.)

Whereas the above-named A.B. has duly attended before the Court and has been publicly examined as to his conduct, dealings, and property:

And whereas the Court is of opinion that the affairs of the said A.B. have been sufficiently investigated, it is hereby ordered that the examination of the said A.B. is concluded.

Dated .

By the Court,
C.D., Registrar.

No. 38.

Order of Adjudication.

(Title.)

Pursuant to a petition dated _____ against [here insert name, description, and address of debtor] on which a receiving order was made, on the [date] and on the application of [here insert "the official receiver" or "the debtor himself" or "A.B. of _____ a creditor"], and on reading _____ and hearing _____ it is ordered that the debtor be and the said debtor is hereby adjudged bankrupt.

Dated

By the Court,
Registrar.

No. 39.

Notice of Adjudication (Local Paper).

In Bankruptcy. Notice is hereby given that [*here insert name, address, and description of bankrupt*] was on the day of adjudged bankrupt by the High Court [*or the County Court*] of holden at].
G.H., Official Receiver.

No. 40.

Application to annul Adjudication under Sect. 35.

(Title.)

I, *R.S.*, of , being interested in this matter do hereby make application to the Court that the order of adjudication against *A.B.* be annulled [*here state grounds of application*].

Dated .

R.S.

No. 41.

Order Annuling Adjudication under Sect. 35.

(Title.)

On the application of *R.S.*, of , and on reading and hearing , it is ordered that the order of adjudication dated against *A.B.*, of , be and the same is hereby annulled.

Dated .

By the Court

Registrar.

No. 42.

Application for Order of Discharge.

(Title.)

I, *A.B.*, of , having been adjudged bankrupt on the day of 188 , and being desirous of obtaining my discharge, hereby apply to the Court to fix a day for hearing my application.

My public examination was concluded on the day of .

Annexed hereto is the certificate of the official receiver certifying the number of my creditors.

(Signed) *A.B.*

To the Registrar of the

Court.

No. 43.

Certificate of Number of Creditors.

(Title.)

I certify that the creditors of the above bankrupt who require to be notified of his intention to apply for his discharge are in number.

Dated

G.H., Official Receiver.

No. 44.

Notice to Creditors of Application for Discharge.

(Title.)

Take notice that the bankrupt A.B., has applied to the Court for his discharge, and that the Court has fixed the day of 188, at o'clock for hearing the application.

G.H., Official Receiver.

To X. Y.

NOTE.—On the back of this notice the provisions of section 28 of the Act should be printed.

No. 45.

Order of Discharge.

(Title.)

On the application of A.B., adjudged bankrupt on the day of 188, and upon reading and hearing [it is ordered that he be, and he hereby is discharged].

[Or it is ordered that his discharge be suspended for [insert period] and that he be discharged as from the day of 188, being [] from the date of this order.]

[Or it is ordered that he be discharged, subject to the following conditions, namely, [insert conditions].]

[Or it is ordered that his discharge be and it hereby is refused.]

Dated

By the Court,
Registrar.

No. 46.

Certificate for Removal of Disqualification.

(Title.)

Whereas an order of discharge was, on the day of 18, granted to A.B., of the above-named bankrupt, it is hereby

certified that the bankruptcy of the said *A.B.* was caused by misfortune without any misconduct on his part.

Dated .

By the Court,
Registrar.

No. 47.

Order sanctioning Composition or Scheme.

(Title.)

On the application of , and on reading, , and hearing , and the Court being satisfied that the creditors in the above matter have duly accepted and approved a composition [or scheme] in the following terms, namely [*here insert terms, if short; if not, insert "in the terms contained in exhibit A. annexed hereto"*], the said composition [or scheme] is hereby sanctioned.

By the Court,

Registrar.

Dated .

N.B.—If the terms of the composition or scheme be contained in an exhibit annexed to the order, each page of the exhibit must be initialled by the Registrar.

No. 48.

Application for enforcement of Provision in a Composition.

(Title.)

In the matter of a composition made by *A.B.*, of *I, F.M.*, of , do apply to this Court for an order for the enforcement of the provisions of the said composition against , on the grounds set forth in the annexed affidavit.

Dated .

F.M.

No. 49.

Affidavit in support of Application for Enforcement of Provisions of a Composition under Sect. 18 or 23.

(Title.)

In the matter of a composition made by *A.B.*, of *I, F.M.*, of , make oath and say:—

1. That I am interested in the said composition, having proved my debt as a creditor of the said *A.B.* [*or as the case may be*].

2. That [one of] the provisions of the said composition is [or are] that [*here set it or them out*].

3. That has failed to comply with the said provisions [*or, as the case may be*].

Sworn at, &c.

F.M.

No. 50.

Order for Enforcement of Provisions in a Composition.

(Title.)

In the matter of a composition made by A.B., of
 Upon hearing the Application of F.M., of and reading
 [here insert evidence], the Court being of opinion that the provisions
 of the said composition mentioned in the said affidavit should be en-
 forced, it is ordered that [here insert order].

Dated

By the Court,
Registrar.

To

Take notice that unless you obey the directions contained in this
 order you will be deemed to have committed a contempt of Court.

No. 51.

Certificate of Scheme or Composition.

(Title.)

I hereby certify that a composition [or scheme of arrangement]
 between A.B. of , the above-named debtor, and his creditors
 was duly sanctioned by the Court on the day of .

Dated

M.N., Official Receiver.

No. 52.

Affidavit for Proof of Debt with or without Security.

(Title.)

I , of , make oath and say:—

1. That the said A.B. was at the date of the receiving order and
 still is justly and truly indebted to [me] in the sum of for
 [state consideration and insert or annex a summary of account and
 describe generally any vouchers necessary to substantiate the debt]
 for which said sum or any part thereof I say that [I] have not nor
 hath any person by my order or to my knowledge or belief or [my] use
 had or received any manner of satisfaction or security whatsoever
 save and except the following:—

[Here set out the particulars of all securities held, and where the
 securities are on the property of the debtor assess the value of the same,
 and if any bills or other negotiable securities be held specify them in
 the Schedule.]

Date.	Drawn.	Acceptor.	Amount.	Date when due.
			£ s. d.	

Sworn, &c.

[When affidavit is made by a clerk alter the form accordingly and add the following.] That I am in the employ of C.D., and that I am duly authorised by him to make this affidavit, and that it is within my own knowledge that the aforesaid debt was incurred, and for the consideration above stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

No. 53.

Affidavit of Proof of Debt by Agent of a Company.

(Title.)

I, _____ of _____, secretary [or manager or other officer] of _____ [here state name of corporation] make oath and say That I am duly authorised, under the seal of the [here set out the name and style of the corporation], to make the proof of debt on its behalf [then follow last affidavit, altering form accordingly.]

NOTE.—This form may also be incorporated in the proof in the same manner as is provided in the case of a clerk proving for his employer.

No. 54.

General Proxy.

(Title.)

I, C.D. of _____, a creditor, hereby appoint the Official Receiver in the above matter [or Mr. A.B. of _____, clerk in my regular employ] to be my general proxy in the above matter [excepting as to the receipt of dividend].

(Signed)

C.D.

Dated

Signature of witness.

Address.

NOTE.—When the creditor desires that his general proxy should receive dividends he should strike out the words "excepting as to the receipt of dividends" putting his initials

thereto. The creditor must fill up blanks in his own handwriting.

The authorised agent of a corporation may fill up blanks, and sign for the corporation, *e.g.*, for the _____ company.
J.S. (duly authorised under
 the seal of the company).

No. 55.

Special Proxy.

(Title.)

I, *C.D.* of _____, a creditor, hereby appoint the Official Receiver in the above matter [*or Mr. A.B. of _____*] as my proxy at the meeting of creditors to be held on the _____ day of _____, to vote for [*or against*] [*here specify the particular resolution or name of proposed trustee*].

(Signed)

Dated

*C.D.**Signature of witness.**Address.*

NOTE.—The creditor must fill up blanks in his own handwriting. The authorised agent of a corporation may fill up blanks and sign for the corporation, *e.g.*, for the _____ company.
J.S. (duly authorised under
 the seal of the company).

No. 56.

Voting Letter under Sect. 18 (2)

Re

Date

Address

SIR,

I REQUEST you to record my vote for [*or against*] the above proposed composition [*or scheme of arrangement*] in the said matter.

(Signed) *J.S.**Signature of witness.**Address.*

To the Official Receiver of the Estate of _____

N.B.—This form of voting letter is to be attached to the notice of proposed composition or scheme to be circulated by the Official Receiver. The letter must be sent in so as to reach the Official Receiver not later than the day before the meeting.

No. 57.

Notice to Creditors of First Meeting.

(Title.)

Take notice that the first meeting of creditors in the above matter will be held on the _____ day of _____ at [insert place] at [insert hour].

To entitle you to vote thereat your proof must be lodged with me one clear day at least before the meeting.

Forms of proxies can be obtained from me on payment of _____.

The public examination of the debtor is fixed for _____ day of _____ at _____.

[To X. Y.]

M. N., Official Receiver.

Indorsement.

At the first meeting the creditors may (amongst other things)—

1. By special resolution resolve to entertain a proposal for a composition or scheme under s. 18 of the Act, either with or without the intervention of a trustee.

2. By ordinary resolution resolve that the debtor be adjudged bankrupt, and in that case they may also, by ordinary resolution, if the estate exceeds £300 appoint a trustee.

3. By ordinary resolution fix the remuneration of the trustee, or resolve that the same be left to the committee of inspection; but if one-fourth in number or value of creditors dissent from the resolution fixing the trustee's remuneration, the Board of Trade is to fix his remuneration.

4. By ordinary resolution to appoint a committee of inspection from among the creditors qualified to vote, or the holders of general proxies or general powers of attorney for such creditors.

5. By ordinary resolution determine the remuneration to be paid to the special manager, if one be appointed.

No. 58.

Notice to Debtor to attend first Meeting of Creditors.

(Title.)

Take notice that the first meeting of your creditors will be held on the _____ day of _____ 1888 at _____ o'clock at [here insert place where meeting will be held], and that you are required to attend thereat and submit to such examination and give such information as the meeting may require. And further, take notice that if you fail to comply with the requirements of this notice you will be guilty of a contempt of Court and may be punished accordingly.

Dated _____

G H., Official Receiver,

No. 59.

Minutes of Proceedings at First Meeting.

(Title.)

Minutes of resolutions come to and proceedings had at the first meeting of creditors held at this day of 18 , Chairman, the official receiver [or the official receiver being absent, *F.K.* of Chairman].

Resolved as follows :—

That *A.B.* shall be adjudged bankrupt, and that the official receiver do apply to the Court to make the adjudication.

That *G.H.*, of [residence and occupation], shall be the trustee of the property of the bankrupt at [here state remuneration] [or That the appointment of a trustee in this bankruptcy be made by the committee of inspection].

That *I.K.*, *L.M.*, *N.O.*, *P.Q.*, and *R.S.*, be appointed the committee of inspection in this bankruptcy, for the purpose of superintending the administration of the property of the bankrupt by the trustee.

Or,

That [the debtor's] proposal for a composition [or scheme] be entertained, and that this meeting be adjourned to the day of for the purpose of settling [or further considering] the terms thereof.

[Here add any other resolutions that may be come to as to the manner of the administration of the property of the trustee, the transfer of the proceedings to another Court.]

F.K., Chairman.

Number	Assenting Creditors' Signatures.	Amount of Proof.	Number	Dissenting Creditors' Signatures.	Amount of Proof.
		£ s. d.			£ s. d.

NOTE.—When a resolution is carried unanimously the creditors need not sign, but when a division is taken all creditors and holders of proxies voting should sign. The signatures must be attached at the meeting. Resolutions should be put separately.

No. 60.

*List of Creditors assembled to be used at every Meeting.**(Title.)*

Meeting held at		this	day of	188
Number	Names of Creditors present or assembled.			Amount of Proof.
				£ s. d.
1				
2				
3				
4				
5				
6				
7				
7	Total number of Creditors present or assembled...			

No. 61.

*Order of Court for General Meeting of Creditors.**(Title.)*

Upon the application of *C.D.*, of _____, it is ordered that the trustee of the property of the bankrupt [or the official receiver of this Court] do summon a meeting of the creditors of the bankrupt to be held at _____ on the _____ day of _____ 18____, at _____ o'clock in the _____ noon [here state the purpose for which meeting called].

Dated _____

By the Court,
Registrar.

No. 62.

*Notice of Meeting (General Form).**(Title.)*

Take notice that a meeting of creditors in the above matter will be

held on the day of at , at o'clock.

Agenda.

[Here insert purpose for which meeting called.]

Dated

(Signed)

G.H., Trustee

[or Official Receiver].

N.B.—Forms of proxies can be obtained on application to the official receiver, on payment of

No. 63.

Notice convening Second Meeting to confirm Composition or Scheme.

(Title.)

In the matter of a proposed composition.

A second general meeting of the creditors of the above-named person [or persons] is hereby summoned to be held at on , the day of instant [or next], at o'clock in the noon precisely. A majority in number representing three-fourths in value of all the creditors who have proved, may confirm the resolution come to at the first general meeting, to accept the proposed composition, which is to the following effect [state proposed terms]. If the composition be rejected the meeting may proceed to elect a trustee.

Dated the day of 188

(Signed) M.N. (Official Receiver).

NOTE.—The report of the official receiver on the proposed composition should be annexed to this notice.

No. 64.

Resolution at Second General Meeting.

(Title.)

In the matter of a proposed composition.

We, the undersigned, being the statutory majority of creditors assembled at the second meeting in the above matter, duly held at , this day of 188 , in accordance with the provisions of the said Act, do hereby confirm the resolution passed by the statutory majority of the creditors of the said A.B. assembled at the first meeting.

[Here follow signatures of creditors.]

F.K., Chairman.

No. 65.

*Notice to Creditors and Official Receiver of Application to Court
to sanction Composition or Scheme.*

(Title.)

Take notice that application will be made to the Court on the
day of , to sanction the composition [or scheme], approved
on the day of by the Statutory majority of creditors.
Dated . . .

G. H.

No. 66.

*Notice to Creditors of Meeting to remove Trustee and to appoint a
Person to fill the Vacancy.*

(Title.)

At the request of one fourth in value of the creditors of the bank-
rupt a general meeting of the creditors is hereby summoned to be
held at on the day of 18 at o'clock in the
noon for the purpose of considering the propriety of removing
G. H. the trustee of the property of the bankrupt from his office as
such trustee, and in the event of his removal to appoint a person to
fill the vacancy.

Dated

L. M.,

A member of the Committee of Inspection
[or Official Receiver].

No. 67.

Notice of Meeting to be held to appoint new Trustee.

(Title.)

I, C. D., the official receiver in the above matter, hereby give you
notice that a meeting of creditors will be held at on the
day of 187 , o'clock in the noon,
for the purpose of appointing a trustee in the place of the late trustee,
who has resigned the office [or who has died or has become
bankrupt].

Dated

C. D.

To X. Y.

Official Receiver.

No. 68.

Minutes of Meeting for receiving Resignation of Trustee, &c.

(Title.)

Minutes of proceedings had at a meeting of creditors of the said
bankrupt held at on the day of 187 .
Chairman of the meeting, E. F. of
Resolved (here should follow resolutions).
E. F., Chairman of this meeting.

No. 69.

Report of Appointment of Trustee.

(Title.)

It is reported to the Board of Trade as follows:—

1. That [the first] meeting of creditors in this [bankruptcy] was held at _____ on the _____ day of _____ at _____ o'clock in the _____ noon.

2. That by resolution at such meeting *G.H.* of _____ was appointed to fill the office of trustee of the property of the bankrupt.

Dated _____

F.K. Chairman [Official Receiver].

No. 70.

Request by Creditors to Board of Trade to notify Objection to Trustee to High Court.

(Title.)

We, the undersigned, being a majority in value of the creditors of the above-named *A.B.*, do hereby request the Board of Trade to notify to the High Court their objection to the appointment of *C.D.* as trustee of the property of the bankrupt.

Dated this _____ day of _____

18 _____

Signature of creditors.

Amount of debt.

*E.F.**G.H.**K.L.*

&c.

No. 71.

Certificate of Appointment of Trustee.

(Title.)

This is to certify that *G.H.*, of _____ has been duly appointed and approved as trustee of the estate of _____, who was adjudged bankrupt on the _____ 188 _____.

By the Board of Trade,

(Signed) *J.S.*

No. 72.

Bond of Trustee.

(Title.)

Know all men by these presents, that we, *G.H.* of, &c., and *C.D.* of, &c., and *E.F.* of, &c., are jointly and severally held and firmly bound to _____ in £ _____ to be paid to the said _____, or his certain attorney, executors, administrators, or assigns.

For which payment to be made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of
one thousand eight hundred and .

WHEREAS on the day of 18 , A.B. of , was adjudged bankrupt; and whereas at [the first meeting] of creditors under the said bankruptcy the said G.H. was appointed trustee of the property of the bankrupt; and whereas the said trustee has been directed to give security by bond to [here state to whom] in the sum of , with two sufficient sureties thereto.

Now, therefore, the condition of this bond or obligation is such that if the said G.H. shall and do from time to time well and sufficiently perform and execute all and singular the duties required of him as trustee by the Bankruptcy Act, 1883, or any general Rule made or hereafter to be made under such Act, this obligation shall be void or otherwise shall remain in full force and virtue.

Signed, sealed, and delivered by the above	}	G.H.	(L.S.)
bounden in the presence		C.D.	(L.S.)
of		E.F.	(L.S.)

NOTE.—If a deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.

No. 73.

*Report of Appointment of Trustee to fill a Vacancy caused
by Resignation, &c.*

(Title.)

It is reported to the Board of Trade as follows:—

1. That a meeting of creditors in this bankruptcy was held at
on the day of at
o'clock in the noon, for the purpose of receiving of G.H. his
resignation of the office of trustee and of appointing a person to fill
such office [or for the purpose of appointing a trustee in the place of
G.H. who is dead or who has resigned, or as the case may be].
2. That the said G.H. resigned the office of trustee and by
resolution at such meeting N.O. of , was appointed to
fill the office of trustee of the property of the bankrupt.

F.K., Chairman.

No. 74.

Application for directions by Trustee.

(Title.)

I desire to make application to the Court for its directions [here
state the particular matter in relation to which they are sought].

Trustee.

Let this application be heard on the day of at
 o'clock in the noon, and let the trustee give notice to
 [here insert the persons to whom it is to be given].

Dated this day of 188 .

Registrar.

No. 75.

Order on application of Trustee for Directions.

(Title.)

Whereas at a Court held this day the trustee of the property of the bankrupt applied to this Court for its directions [here state the particular matter in relation to which they are sought]. Now upon hearing of C.D., of , on the matter, it is ordered [here set out the order], and that the trustee do pay out of his own moneys [or out of the property of the bankrupt] the sum of the costs of this order, and the sum of to C.D. for his costs [or that C.D. do pay the sum of the costs of this order, and also the sum of to C.D. for his costs].

Dated .

By the Court,
 Registrar.

No. 76.

Notice of Intention to disclaim Lease.

(Title.)

Take notice that I intend to disclaim the lease dated , whereby [here specify property let] was let to the above-named debtor at a rent of £ .

If you do not within seven days after service of this notice upon you require me by notice in writing to bring the matter before the Court, I hereby disclaim the said lease as from the expiration of the said seven days.

Dated .
 To Mr. X. Y. .

G.H. [Trustee].

No. 77.

Notice of Intention to declare Dividend.

(Title.)

A dividend is intended to be declared in the above matter. You are mentioned in the debtor's statement of affairs, but you have not yet proved your debt.

Creditors who have not proved their debts by the
 day of 188 , will be excluded from this dividend.

Dated .

To X.Y.

G.H., Trustee
 [Address.]

in the Pound has been declared in this matter, and that the same may be received at _____ Office, as above, on _____ the _____ of _____ or on any subsequent Monday, between the hours of _____.

Upon applying for payment, this Notice must be produced entire, together with any Bills of Exchange, or other securities held by you ; and if you do not attend personally, you must fill up and sign the subjoined Forms of *Receipt and Authority*, when a cheque payable to your order will be delivered to the bearer.

To _____ (Signed)
_____ G.H. [Trustee].

NOTE.—On application for the Dividend, this Notice must be produced entire, and the Bills or other Securities held by you must be produced.

RECEIPT.

_____ 18 .
RECEIVED OF _____ the sum of
_____ Pounds _____ Shillings and _____ Pence,
being the amount payable to _____ in respect of the
dividend of _____ in the £ on _____ claim against this estate.

£ : : _____ { *Creditor's*
_____ { *Signature.*

AUTHORITY.

SIR,
Please deliver to _____ th
(Insert the name of the person who is to receive the cheque,
or the words, "me by post." If you wish the cheque
sent to you in that way.)
cheque for the dividend payable to _____ in this matter.

_____ { *Creditor's*
_____ { *Signature.*
_____ 188 .
To _____.

No. 81.

Application by Creditor for Order for Trustee to pay Dividend withheld and Order thereon.

(Title.)

I, F.K. of _____, make application to this Court for an order to be made upon the trustee to pay the dividend in this bankruptcy due to me, with interest thereon for the time it has been withheld from me, that is to say, from the _____ day of _____ 188 , on

which day I applied to the trustee for its payment to me, and al :to
pay to me the costs of this application.

Dated this day of 188 .

F.K.

Order.

Upon the reading of this application, and upon hearing
it is ordered that the trustee do forthwith pay to the said *F.K.* the
sum of pounds, the amount of such dividend.

And it is further ordered that the trustee do pay to the said creditor
at the same time the sum of , for interest on such dividend,
being at the rate of 5l. per cent. per annum for the time that its pay-
ment has been withheld, together with a further sum of for
the costs of this application.

Dated .

By the Court,
Registrar.

*(If the Court does not order payment, then, after the words
" it is ordered " insert the order made.)*

No. 82.

*Certificate by Committee of Inspection as to Audit of
Trustee's Accounts.*

We, the undersigned, members of the committee of inspection in
the matter of , a bankrupt, hereby certify that we have
examined the foregoing account with the vouchers, and that to the
best of our knowledge and belief the said account contains a full, true,
and complete account of the trustee's receipts and payments on
account of the estate.

A.B. }
C.D. } Committee of Inspection.
E.F. }

Dated .

No. 83.

' Affidavit verifying Trustee's Account.

(Title.)

I, *G.H.* of , the trustee of the property of the above-
named bankrupt, make oath and say :

That ** the account hereunto annexed marked B. contains a full
and true account of my receipts and payments on account of the
bankrupt's estate from the day of to the
day of inclusive, * and that I have not, nor has any
other person by my order or for my use during such period, received
any moneys on account of the said estate * other than and except the
items mentioned and specified in the said account.*

Sworn at, &c. }

* *NOTE.*—If no receipts or payments, strike out the words in italics.

No. 85.

Trustees' Trading Account.

(Title.)

G. H., the trustee of the property of the bankrupt in account with the estate.

[illegible]

G. H., Trustee.

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

Committee of Inspection

[or member of the Committee of Inspection].

No. 86.

Profit and Loss Account (Trading Account).

(Title.)

Dr.		PROFIT AND LOSS ACCOUNT.		Cr.	
		£	s. d.		£ s. d.
Stock on hand on				Sales
day of	18 ...			Other receipts, if any	...
Purchases			Stock on hand on	...
Trade expenses, viz. :—				day of	18 ...
	£ s. d.				
Rent and Taxes					
Wages					
Miscellaneous...					
Balance being profit	...				

G. H., Trustee.

NOTE.—This account to be submitted when the Committee of Inspection require, and in any case at the end of the trading or business *carried on by the trustee.*

No. 87.

Affidavit verifying Trustees' Trading Account.

(Title.)

I, *G.H.*, of _____, the trustee of the property of the above-named bankrupt, make oath and say that the account hereto annexed is a full, true, and complete account of all moneys received and paid by me or by any person on my behalf in respect of the carrying on of the trade or business of the bankrupt, and that the sums paid by me as set out in such account have, as I believe, been necessarily expended in carrying on such trade or business.

Sworn, &c.

G.H., Trustee.

No. 83.

Notice to Bankrupt under Sect. 53.

(Title.)

To *A.B.*

Take notice that I intend to apply to this Court on the day of _____ 188____, at _____ o'clock in the _____ room, for an order under section 53 of the Bankruptcy Act, 1883, for the payment of a part of your salary [or income] to me as trustee for the benefit of the creditors under your bankruptcy.

Dated _____.

G.H., Trustee.

No. 89.

Order setting aside Pay, Salary, &c., under Sect. 53 (1).

(Title.)

Whereas it appears to the Court that the said bankrupt is [or, *here state what the bankrupt is*], and as such is in the enjoyment of the annual pay [or salary] of _____ pounds; and whereas upon the application of *G.H.* of _____ the trustee of the property of the bankrupt, it appears to the Court just and reasonable that the annual sum of _____ pounds, portion of the said pay [or salary] ought to be paid to the said trustee during the bankruptcy, in order that the same may be applied in payment of the debts of the said bankrupt, and that such payment ought to be made out of the first moneys which shall be due after the day of _____ 188____, and be continued until this Court shall make order to the contrary: it is ordered, with the written consent of [here insert the official title of the chief officer of the department under which the pay or salary is enjoyed], that such portion of the [here insert pay or salary] shall be paid to the trustee accordingly.

Dated _____.

By the Court,

Registrar.

I consent to the above order.

Dated _____.

188____.

F.K. [add title and office].

✓

No. 90.

Order setting aside Salary or Income, &c., under Sect. 53 (2).

(Title.)

Whereas it having been made to appear to this Court that the bankrupt is in the receipt of [*or entitled to*] a salary [*or income, half-pay, pension, or compensation granted by the Treasury, as the case may be*] of about pounds, as [*here set forth the circumstances under which the salary or income is received*]: And whereas upon the application of the trustee of the property of the bankrupt, and upon hearing the bankrupt, it appears to the Court just and reasonable that the annual sum of pounds, portion of the said salary [*or income, &c.*] ought to be paid by the bankrupt by monthly [*or quarterly*] payments [*according as the bankrupt receives his salary or income, &c.*] to the trustee during the bankruptcy, in order that the same may be applied in payment of the debts of the said bankrupt, and that the first of such payments ought to be made on the day of 188 , and be continued monthly [*or quarterly*] until this Court shall make order to the contrary: it is ordered that the said sum shall be paid by in manner aforesaid out of the bankrupt's said salary [*or income, &c.*]

By the Court,
Registrar.

Dated .

No. 91.

Application to Board of Trade to authorise Account at Local Bank.

(Title.)

We, the committee of inspection, being of opinion that Mr. G.H. of , the trustee in the above matter, should have an account at a local bank for the purpose of [*here insert grounds of application*], hereby apply to the Board of Trade to authorise him to make his payments into and out of the Bank.

Dated .

L.M.
J.P. } Committee of Inspection.
E.F. }

No. 92.

Order of Board for Local Account.

(Title.)

You are hereby authorised to make your payments in the above matter into and out of the Bank.

By order of the Board of Trade.

To Mr. G.H., Trustee.

J.S.

No. 93.

Notice to Creditors of intention to apply for Release.

(Title.)

Take notice that I, the undersigned trustee [or late trustee] of the property of the bankrupt, intend to apply to the Board of Trade for my release, and further take notice that any objection you may have to the granting of my release must be notified to the Board of Trade within twenty-one days of the date thereof.

A summary of my receipts and payments as trustee is hereto annexed.

Dated this day of 18 .

To K.L., creditor..

G.H., Trustee.

NOTE.—Section 82 of the Bankruptcy Act, 1883, enacts that “An order of the Board releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee, but such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.”

No. 94.

Application by Trustee to Board of Trade for Release.

(Title.)

I, G.H., the trustee of the property of the bankrupt, do hereby report to the Board of Trade, as follows :—

1. That the whole of the property of the bankrupt has been realised for the benefit of his creditors, [and a dividend to the amount of shillings in the pound has been paid as shown by the statement hereunto annexed ;]

[or That so much of the property of the bankrupt as can, according to the joint opinion of myself and the committee of inspection, hereunto annexed in writing under our hands, be realised without needlessly protracting the bankruptcy, has been realised, as shown by the statement hereunto annexed, and a dividend to the amount of shillings has been paid];

[or That a composition [or scheme], under section 23 of the Act has been duly approved by the Court.]

2. I therefore request the Board of Trade to cause a report on my accounts to be prepared, and to grant me a certificate of release.

Dated

G. H., Trustee.

No. 95.

Request to deliver Bill for Taxation.

(Title.)

I hereby request that you will within fourteen days of this date deliver to the taxing officer of the Court for taxation your bill of costs [or charges] as [here state capacity in which person employed or engaged], failing which I shall, in pursuance of the statute, proceed to declare and distribute a dividend without regard to any claim you may have against me or against the estate of the debtor.

Dated this day of 18 .

G. H. [Trustee].

No. 96.

Allocatur.

(Title.)

I hereby certify that I have taxed the bill of costs [or charges] [or expenses] of Mr. C. D. [here state capacity in which employed or engaged] [where necessary add "pursuant to an order of the Court dated the day of 18 "], and have allowed the same [in case of solicitor's costs state whether on higher or lower scale] at the sum of pounds shillings and pence [where necessary add "which sum is to be paid to the said C. D. by as directed by the said order"].

Dated this day of 18 .

£ : :

Taxing Master [or Registrar].

No. 98.

Return by Taxing Officer.

The Bankruptcy Act, 1883.

In the High Court, &c.
[or the County Court of holden at].

RETURN of BILLS taxed during the Year ending 31st December, 18 .

	The Bankruptcy Act, 1883.				Other Acts.			
	Number of Bills Taxed.	Gross Amount of Bills.	Amount struck off on Taxation.	Net Amount Allowed.	Number of Bills Taxed.	Gross Amount of Bills.	Amount struck off on Taxation.	Net Amount Allowed.
Solicitors' Bills ...								
Auctioneers' Bills ...								
High Bailiffs' Bills ...								
Trustees' or Managers' Bills								
Accountants' Bills ...								
Other Bills								
Totals								

(Signed)

No. 99.

Admission of Debt by Debtor of Bankrupt.

(Title.)

In the matter of *A. B.*, of _____, a bankrupt.
I, the undersigned *J. K.*, of _____, do hereby admit that I
am indebted to the said bankrupt in the sum of _____ pounds,
upon the balance of accounts between myself and the said bankrupt.

Witness,
C.D., Registrar,
or
[Official Receiver].

No. 100.

Order to pay admitted Debt.

(Title.)

WHEREAS *J. K.* of _____, in his examination taken this day, and signed and subscribed by him, has admitted that he is indebted to the said debtor in the sum of _____ pounds, on the balance of accounts between him and the debtor; it is ordered that the said *J. K.* do pay to the trustee of the property of the debtor, in full discharge of the sum so admitted, the sum of _____ pounds forthwith [or if otherwise, state the time and manner of payment], and do further pay to the said trustee the sum of _____ pounds for costs.

Dated this _____ day of _____ 188 .

By the Court,
Registrar.

No. 101.

Search Warrant.

(Title.)

Whereas by evidence duly take upon oath it hath been made to appear to the Court that there is reason to suspect and believe that property of the said debtor is concealed in the house [or other place, describing it, as the case may be] of one *X. M.*, of _____ in the county of _____ such house [or place] not belonging to the said debtor.

These are therefore to require you to enter in the daytime into the house, [or other place, describing it] of the said *X. M.* situate at _____ aforesaid, and there diligently to search for the said property; and if any property of the said debtor shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the Bankruptcy Act, 1883.

Dated _____

Registrar.

To the *X. Y.* officer of this Court and his assistants [or High Bailiff and others the Bailiffs of this Court].

No. 102.

Warrant of seizure.

(Title.)

Whereas on the _____ day of _____ 188 , a receiving order was made against the said debtor:—These are therefore to require you forthwith to enter into and upon the house and houses, and other the premises of the said debtor, and also in all other place and places belonging to the said debtor where any of his goods and moneys are,

or are reputed to be; and there seize all the ready money, jewels, plate, household stuff, goods, merchandise, books of accounts, and all other things whatsoever, belonging to the said debtor except his necessary wearing apparel, bedding and tools, as excepted by the Bankruptcy Act, 1883.

And that which you shall so seize you shall safely detain and keep in your possession until you shall receive other orders in writing for the disposal thereof from the trustee [or official receiver]; and in case of resistance or of not having the key or keys of any door or lock of any premises belonging to the said debtor where any of his goods are or are suspected to be, you shall break open, or cause the same to be broken open for the better execution of this warrant.

Dated

Registrar.

To the X. Y. officer of this Court, and to
his assistants [or to the High Bailiff
and others the Bailiffs of this Court].

No. 103.

Warrant against Debtor about to quit England, &c.

(Title.)

To the X. Y. officer of this Court [or where warrant issues from a County Court, To the High Bailiff and others the Bailiffs of the said Court] and all peace officers within the jurisdiction of the said Court, and to the Governor or Keeper of the [here insert the prison].

Whereas, by evidence taken upon oath, it hath been made to appear to the satisfaction of the Court, that there is probable reason to suspect and believe that the said A. B., of , is about to go abroad [or quit his place of residence] [with a view of avoiding service of a bankruptcy petition] [or of avoiding appearing to a bankruptcy petition], [or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy] [or of avoiding payment of a judgment debt in respect of which a bankruptcy notice has been issued].

[Or that there is probable cause to suspect and believe that the said A. B. is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee of the property of the bankrupt, [or that the said A. B. has concealed, [or is about to conceal or destroy his goods or chattels, or some of them, or his books, documents, or writings, or some or one of them, which books, documents, or writings, or some or one of them may be of use to the creditors in the course of the bankruptcy of the said A. B.]

[Or Whereas by evidence taken upon oath it hath been made to appear to the satisfaction of this Court that the said A. B. has removed certain of his goods and chattels in his possession, above the

value of five pounds, without the leave of the trustees, that is to say [here describe the goods or chattels].

[Or that the said A.B. did without good cause fail to attend at this Court on the day of 188 , for the purpose of being examined, according to the requirements of an order of this Court made on the day of , 187 , directing him so to attend.]

These are therefore to require you the said [or High Bailiff, Bailiffs], and others, to take the said A.B. and to deliver him to the Governor or Keeper of the above-named prison, and you the said Governor or Keeper to receive the said A.B., and him safely to keep in the said prison until such time as this Court may order.

Dated

By the Court,
Registrar.

No. 104.

Subpœna (High Court).

(Title.)

Victoria, by the Grace of God, &c. to [the names of three witnesses may be inserted] greeting: We command you to attend before

at on day the day of
18 , at the hour of in the noon, and so from day to day until the above matter is heard, to give evidence on behalf of [insert name].

Dated

Registrar.

No. 105.

Subpœna Duces Tecum (High Court).

(Title.)

Victoria, by the Grace of God, &c. to [the names of three witnesses may be inserted] greeting: We command you to attend before

at on day the day of
18 , at the hour of in the noon, and so from day to day until the above matter is heard, to give evidence on behalf of , and also to bring with you and produce at the time and place aforesaid [specify documents to be produced].

Dated

Registrar.

No. 106.

Subpœna or Summons to Witness in County Court.

(Title.)

To X.Y. of

You are hereby required to attend at the Court House in on the day of , in the noon to give evi-

dence in the above matter [*add where issued at instance of petitioning creditor on behalf of C. D. of* , by whom the said petition has been presented], and then and there to have and produce [*state any particular documents required*] : hereof fail not at your peril.

Dated .

Registrar.

No. 107.

Summons under Section 27.

(*Title.*)

To X. Y. of

You are hereby required to attend at [the Court House] in on the day of , at o'clock in the noon to give evidence in the above matter, and then and there to have and produce [*state any particular documents required*] : hereof if you fail, having no lawful impediment to be then made known to the Court and allowed by it, the Court may by warrant cause you to be apprehended and brought up for examination.

Dated .

Registrar.

No. 108.

Application by Trustee for committal of Bankrupt or other person.

(*Title.*)

I, the trustee of the property of the said bankrupt [*or as the case may be*], do apply to this Court for an order of committal for contempt of this Court against the said bankrupt [*or L. M.*], on the ground set forth in the annexed affidavit.

Dated .

G. H., Trustee.

No. 109.

Affidavit in support of Application for committal of Debtor for Contempt under Section 24.

(*Title.*)

I, G. H., the official receiver of the estate of the said debtor [the trustee of the property of the said bankrupt] make oath and say :—

[1. That the said debtor did attend at the first meeting of his creditors held on the day of 188 , at , and wilfully refused to submit to be examined at such meeting in respect of his property [*or his creditors*], the submitting to examination being a duty imposed upon him by the Bankruptcy Act, 1883.

[1. That the said [debtor] bankrupt did wilfully fail to attend a

day of 188 , I posted another letter, by which I again called upon him to, &c., and that he has failed to pay and deliver the same].

3. That I firmly believe that the said *L.M.* is not entitled by law to retain such moneys [and securities] as against the bankrupt or against me as the trustee of the property of the bankrupt.

Sworn at, &c.

G.H.

No. 111.

Notice of Application for Committal under Sects. 18, 23.

(Title.)

To

Take notice that *C.D.* of , will on the day of 188 , at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having disobeyed the order of this Court made on the day of 188 , [here set out order]. And further take notice that you are required to attend the Court on such day at the hour before stated, to show cause why an order for your committal should not be made.

Dated

Registrar.

No. 112.

Order of Committal under Sect. 18 or 23.

(Title.)

Whereas by an order of this Court made on the day of 188 [here recite the order]. Now upon the application of *C.D.*, of , and upon hearing *A.B.* (or, as the case may be), [or if he does not appear] reading the affidavit of [here insert name and description of person by whom the order was served on *A.B.*], and upon reading the affidavit of [enter evidence], the Court being of opinion that the said *A.B.* has been guilty of a contempt of this Court by his disobedience of the said order, it is ordered that the said *A.B.* do stand committed to [here insert prison] for his said contempt.

Dated

By the Court,
Registrar.

No. 113.

Notice of Application for Committal under Sect. 24.

(Title.)

To the said *A.B.*, bankrupt.

Take notice that the trustee [or official receiver] of the property of the said bankrupt will on the day of 188 ,

at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having failed to perform the duty imposed on you by the twenty-fourth section of the said Act [*here set out the duty he has failed to perform*]. And further take notice that you are required to attend the Court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated ,

Registrar.

No. 114.

Affidavit of Person interested in a Composition for Committal.
(Title.)

In the matter of a composition made by A.B., of

I, P.M., of make oath and say:—

1. That of was by an order of this Court made on the day of 188 , ordered to [*here set out the order*].

2. That a copy of the said order was duly served on the said .

3. That the said has failed to obey such order.

Sworn at, &c.

F.M.

No. 115.

Affidavit for Immediate Committal under Sect. 102 (6).

(Title.)

I, F.M., of make oath and say:—

1. That G.H. of was by an order of the [Board of Trade] made on the day of 188 , ordered to [*here set out order*].

2. That [a copy of] the said order was duly served on the said G.H.

3. That the said G.H. has failed to obey the order.

Sworn, &c.

No. 116.

Notice of Application for Committal under Sect. 50 (6).

(Title.)

To [*here insert name, address, and description of the person to whom the notice is to be sent*].

Take notice that the trustee [or official receiver] of the property of the said bankrupt will on the day of 188 , at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having failed to pay and deliver to him certain moneys [and securities] belonging to the bankrupt in your possession or power as [*here state whether as Treasurer, Banker, &c.*], that is to say [*here set out and*

describe the particular moneys and securities]. And further take notice that you are required to attend the Court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated .

Registrar.

No. 117.

Order of Committal under Sect. 24.

(Title.)

Upon the application of the trustee [or official receiver] of the property of the bankrupt [or debtor], and upon hearing the bankrupt [or if he does not appear], and reading the affidavit of [*here insert name and description of person by whom the notice to show cause was served*] and upon reading the affidavit of [*enter evidence*], the Court being of opinion that the bankrupt has been guilty of a contempt of this Court by having failed to [*here follow the notice*], it is ordered that the said bankrupt do stand committed to [*here insert prison*] for his said contempt.

Dated

By the Court,
Registrar.

No. 118.

Order of Committal under Sect. 50 (6).

(Title.)

Upon the application of the trustee of the property of the bankrupt, and upon hearing *L.M.* [or if *L.M.* does not appear], and reading the affidavit of [*here insert name and description of person by whom the notice to shew cause was served*] and upon reading the affidavit of [*enter evidence*] the Court being of opinion that *L.M.* has been guilty of a contempt of Court by having failed to pay and deliver to the said trustees certain moneys [and securities] [*here follow the notice*], and the said *L.M.* do stand committed to [*here insert prison*] for the said contempt.

Dated

By the Court,
Registrar.

No. 119.

Warrant of Committal for Contempt.

(Title.)

To X.Y. officer of this Court [or where warrant issues from a County Court, To the High Bailiff and others the Bailiffs of the said Court] and to the Governor or Keeper of the [*here insert the prison*].

WHEREAS by an order of this Court bearing date the day

of 188, it was ordered that the said debtor [or *L.M.* of] should stand committed for contempt of this Court :

These are therefore to require you the said *X.Y.* [or High Bailiff, Bailiffs], and others, to take the said *A.B.* [or *L.M.*] and to deliver him to the Governor or Keeper of the above-named prison, and you the said Governor or Keeper to receive the said *A.B.*, and him safely to keep in the said prison until such time as this Court shall order.

Dated

By the Court,
Registrar.

No. 120.

Warrant to apprehend a Person summoned under Sect. 24.

(Title.)

To *X.Y.* and his assistants of this Court [or where warrant issues from a County Court, To the High Bailiff and others the Bailiffs of the said Court].

WHEREAS by summons or subpoena dated the day of 188, and directed to the said *A.B.* of [or to *F.M.* of], he was required personally to be and appear on the day of instant, at o'clock in the noon at this Court, to be examined; and which said summons or subpoena was afterwards on the day of 188, as hath been proved upon oath, duly served upon the said, and a reasonable sum was tendered him for his expenses. And whereas the said having no lawful impediment made known to or allowed by this Court hath not appeared before me as by the said summons or subpoena he was required, but therein has wholly made default. These are therefore to will, require, and authorise you and every of you to whom this warrant is directed, immediately upon receipt hereof, to take the said and bring him before this Court on the day of in order to his being examined as aforesaid, and for your so doing this shall be your sufficient warrant.

Dated

By the Court,
Registrar.

No. 121.

Order for Discharge from Custody on Contempt.

(Title.)

Upon application made this day of for *A.B.* who was committed to prison for contempt by order of this Court, dated the day of 188, and upon reading his affidavit showing that he has cleared [or is desirous of clearing] his contempt and has paid the costs occasioned thereby, and upon hearing the

trustee [or official trustee] [or *C.D.* of _____], it is ordered that the governor or keeper of [here insert name of prison], do discharge the said *A.B.* out of his custody, as to the said contempt.

Dated _____ .

By the Court,
Registrar.

No. 122.

Order to Postmaster-General under Section 26.

(Title.)

Upon the application of *G.H.*, of _____, the official receiver [or the trustee] of the property of the above debtor, it is ordered that for a period of three months from [here insert the date] all post letters directed or addressed to the said debtor at [here insert the full address or addresses] shall be redirected, sent, or delivered by the Postmaster-General or officers acting under him to the said official receiver [or trustee] at _____ [or otherwise as the Court may direct], and that a sealed duplicate of this order be forthwith transmitted by the [official receiver] trustee to the Postmaster-General, or officers acting under him.

Dated _____ .

By the Court,
Registrar.

No. 123.

Certificate to Speaker of the House of Commons under Section 33.

(Title.)

In the matter of the said *A.B.*, of _____, a bankrupt.
It is hereby certified by this Court to the Right Honourable the Speaker of the House of Commons that the said *A.B.*, being a Member of the Commons House of Parliament, was by an order made by this Court on the _____ day of _____ 188____ adjudged a bankrupt. And that although six months have expired since the date of the said order of adjudication was made, the said order of adjudication hath not been annulled, nor have the debts of the creditors who proved debts under the bankruptcy been fully paid or satisfied.

Certified under the seal of the Court this _____ day of _____ 188 .

By the Court,
Registrar.

No. 126.
BANKRUPTCY REGISTER to be kept by REGISTRARS of HIGH COURT and REGISTRARS of COUNTY COURTS.

Distinctive Number.	Registrar.	Name of Debtor.	Residence.	Description.	Date of Petition.	Petitioning Creditor.	Sollicitor.	Act of Bankruptcy alleged.	Date of Receiving Order.	Date of Public Examination.	Date of approval of Composition or Scheme.	Date of Adjudication.	Trustee.	Date of hearing Applications for Discharge.	Date of Order of Discharge.	Result of Application and Conditions (if any).	Date of Trustee's Release.	Date of annulling Adjudication.	Proceedings consolidated or transferred.	Date of (Order for summary Administration (s. 121).	Date of Order for Administration of deceased's Estates (s. 125).
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No. 127
BANKRUPTCY NOTICES FOR "LONDON GAZETTE."
THE BANKRUPTCY ACT, 1883.

(1.) *Receiving Orders.*

Debtor's Name.	Address.	Description.	Court.	Number of Matter.	Date of Order.	Date of Petition.	Date of Public Examination.

(2.) *First Meetings.*

Debtor's Name.	Address.	Description.	Court.	Number.	Date of Meeting.	Hour.	Place.

(3.) *Adjudications.*

Debtor's Name	Address.	Description.	Court.	Number.	Date of Order.	Date of Petition.	Name of Trustee (if appointed).	Address of Trustee.

(4.) *Orders on Application to approve Composition or Scheme.*

Debtor's Name.	Address.	Description.	Court.	Number.	Date of Order	Nature of Scheme or Composition sanctioned or Order made.

(5.) *Notice of Intended Dividends.*

Debtor's Name.	Address.	Description.	Court.	Number.	Last Day for receiving Names.	Name of Trustee.	Address.

(6.) *Notice of Dividend.*

Debtor's Name.	Address.	Description.	Court.	Number.	Amount.	When payable.	Where payable.

(7.) *Application for Discharge.*

Debtor's Name.	Address.	Description	Court.	Number.	Day fixed for Hearing.

(8.) *Adjudications Annulled.*

Debtor's Name.	Address.	Description.	Court.	Number.	Date of Adjudication.	Date of Annulment.	Grounds of Annulment.

(9.) *Appointments of Trustees.*

Debtor's Name.	Court.	Number.	Trustee's Name.	Address.	Date of Certificate of Appointment.

(9.) *Orders made on Application for Discharge.*

Debtor's Name.	Address.	Description.	Court.	Number.	Date of Order.	Nature of Order made.

Pursuant to the Act and Rules, notices to the above effect have been received by the Board of Trade.

A.B. [Secretary, or as the case may be].

No. 128.

Memorandum of Advertisement or Gazetting.

(Title.)

Name of Paper.	Date of Issue.	Date of Filing.	Nature of Order, &c.
"London Gazette" [or "Leeds Mercury"].	1 February, 1884.	5 February, 1884.	Receiving Order [or Notice of Dividend].

(Signed)

A.B., Registrar.

SELBORNE, C.

December 1, 1883.

I concur,

J. CHAMBERLAIN,
President of the Board of Trade.

SCALE OF SOLICITOR'S COSTS.*

Petitioning Creditor's Bill of Costs to the Issue of Receiving Order.

	£	s.	d.
Instructions for petition	1	0	0
Examining witnesses as to act of bankruptcy	0	10	0
Examining particulars of petitioning creditor's account	0	6	8
<p>The act of bankruptcy being a declaration admitting inability to pay, filed by the solicitor to the petitioner, or an assignment prepared by the solicitor to the petitioner, or default made upon a Bankruptcy notice issued by the solicitor to the petitioner, these two last charges will not be allowed. The expense of an assignment will not be allowed where a declaration of inability would answer the purpose.</p>			
If solicitor reside at a distance:—			
Writing agent to search for prior petition	3s.	6d.	
Agent's writing result of search	3s.	6d.	
Searching, if prior petition filed	0	7	8
Drawing bankruptcy petition, including order for hearing	0	10	0
Ingrossing same, 4d. per folio only to be allowed where the petition exceeds seven folios.			
Paid for stamp	5	0	0
Attesting signature of each petitioner, except in case of partnership	0	6	8
Drawing and fair copy affidavit verifying petition	0	3	4
Attending petitioner to be sworn	0	6	8
Paid oath (if paid)			
Two copies of petition for sealing, 4d. per folio.			

* See clause 73 of the act with respect to the taxation of costs, and also rules 98 to 110, *ante*. Rule 103 provides for a lower scale of costs, when the estimated or realised assets of the debtor do not exceed £300.

	£	s.	d.
Preparing subpoena and serving witnesses, or arranging with witnesses for their attendance on presentation of petition	0	13	4
Paid them			
See Witnesses' Scale. Petitioning creditor is not to be regarded as a witness, and is not to be paid for loss of time; he may claim his expenses of travelling and subsistence.			
Attending on presentation of petition when court investigated statements therein, and clerk	1	0	0
One fee only for attending will be allowed, unless by direction of the court at the time, and a memorandum of its allowance produced to the taxing officer.			
Drawing order for hearing of petition	0	3	4
Service of Petition (<i>see</i> General Rules).			
Attending court on hearing (where debtor does not appear or dispute)	0	10	0

Debtors' Bill of Costs where Debtor petitions.

Instructions for petition	1	0	0
Drawing and attesting petition	0	13	4
Paid stamp	5	0	0
Attending filing	0	6	8

Where Act of Bankruptcy the filing a Declaration of Inability to Pay.

Drawing and attesting declaration of inability to pay	0	13	4
Paid stamp	0	5	1
Attending filing	0	6	8

Cost of Bankruptcy Notice.

Instructions for, and preparing notice	0	6	8
Preparing request for issue	0	6	8
Attending filing	0	6	8
Paid for office copy			
Notice and two fair copies	0	6	8
Attending sealing notice, copies	0	6	8
Paid stamp	0	5	0
Service of notice	0	5	0
Attending court on hearing of notice	0	13	4

Costs where the Debtor is required by the Court to enter into a Bond.

	£	s.	d.
Attending making inquiries as to sufficiency of sureties	0	13	4
This charge will be subject to increase, according to the distance of the sureties' residence; and, where necessary, agency charges for making such inquiries.			
Drawing exceptions to sureties	0	3	4
Service thereof on debtor's solicitor	0	5	0
Attending court when sureties allowed or disallowed	0	13	4
Costs of affidavits in opposition to the allowance of the bond for want of sufficiency of sureties, the same allowance as for other special affidavits.			

Costs of Bankruptcy Notice, where the Court allows Costs to Debtor on Notice set aside.

The debtor's personal expenses for travelling and loss of time, according to the scale allowed to witnesses.

And if attended by a solicitor, and his costs allowed (which must be by special order of the court).

Instructions to attend the court on the notice	0	6	8
Affidavit of counterclaim, &c.	0	2	6
Paid stamp	0	1	0
Attending court on hearing of notice, and drawing up order	0	13	4
Attending for appointment to tax, and copy and service of order and appointment	0	5	0
Attending taxing	0	6	8
Paid allocatur stamp			

Costs of Application to prosecute a Petition in a particular District, or to transfer Petition from one District to another.

Instructions for affidavit to ground application	0	6	8
Drawing same, 1s. per folio.			
Fair copy, 4d. per folio.			
Attending deponent to be sworn	0	6	8
Paid oath			
Attending court when order made, and drawing up same	0	13	4

Costs on Application for Warrant.

	£	s.	d.
Instructions for affidavit in support of application for warrant	0	6	8
Drawing same, per folio 1s.			
Fair copy, per folio 4d.			
Attending to read over and to get same sworn	0	6	8
Attending court, warrant granted	0	13	4
Fair copy, per folio 4d.			
Attending officer, instructing him as to the execution of the warrant	0	6	8

Costs of disputing Statements in Petition.

Attending debtor served with copy of petition, taking instructions to show cause against same	0	6	8
Drawing notice showing cause	0	5	0
Two fair copies for service	0	2	0
Service on creditor, including postage	0	3	6
Ditto registrar	0	3	6
Perusing and considering petition	0	6	8
Examining witnesses in opposition	0	10	0
Costs of brief, and counsel's fee, where requisite to employ counsel.			
Attending court	1	0	0

Petitioning Creditor's Costs on Bankrupt disputing Statements in Petition.

The debtor having served notice of disputing the statements in petition, attending petitioner	0	6	8
Special attendances will be allowed to examine witnesses as to the facts they can prove, the charges for which, and for summoning them, will be in the discretion of the taxing officer, according to the circumstances; and where necessary to employ counsel to support the petition, the usual charges for brief and counsel's fees will be allowed.			
Attending court when receiving order made	1	0	0

Costs for substituted Service where Debtor keeps out of the way to avoid Service.

Several attendances to serve without effect, when it appearing that the debtor was keeping out of the way, and could not be personally served, instructions to apply for substituted service	0	6	8
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	£	s.	d.
Drawing affidavit of facts, and that due pains had been taken to effect personal service, per folio 1s.			
Fair copy, 4d. per folio.			
Attending court for order for substituted service, and drawing up order	0	13	4

Costs of Brief.

Instructions for brief in discretion of taxing officer			
(Allowed only when counsel employed.)			
Drawing same, 1s. per folio.			
Fair copy, 4d. per folio.			
Fee to counsel and clerk			
Attending him	0	6	8
Where consultation or conference is necessary, attending to appoint same	0	6	8
Fee to counsel and clerk			
Attending consultation or conference	0	13	4

Costs of Cases for Opinion of Counsel.

Instructions for case	0	6	8
Drawing same, 1s. per folio.			
Fair copy, 4d. per folio.			
Fee to counsel and clerk			
Attending him	0	6	8
Where conference is necessary attending to appoint same	0	6	8
Fee to counsel and clerk attending conference	0	13	4
Attending for and perusing opinion	0	6	8
Attending client, reading over opinion, and conferring with him thereon	0	6	8

Costs of Motion.

Instructions	0	6	8
Where on appeal	0	13	4
Drawing notice of motion to be served, per folio 1s.			
Fair copies, 4d. per folio.			
Perusing documents (by London agent) on an appeal from £1 1s. to £2 2s.			
Making copy for filing of notice of motion, and attending registrar therewith, previously to the sitting of the court	0	3	4

	£	s.	d.
Instructions for affidavit in support of motion	0	3	4
[No instructions allowed where the solicitor or his clerk makes the affidavit; no fees allowed to counsel to settle affidavit, unless very special.]			
Drawing same, at per folio 1s.			
Fair copies, per folio 4d.			
Attending reading over and to be sworn	0	6	8
Paid oath			
Copy affidavit for service with the notice of motion, 4d. per folio.			
Service, <i>see</i> General Rules.			
Attending to file affidavit	0	6	8
Paid for office copy, when required			
Affidavit of service and copy notice of motion to annex	0	6	8
Attending court on motion if heard £1 1s., and if not	0	10	6
Drawing order, per folio 1s.			
Attending settling same	0	13	4
Fair copy, per folio 4d.			
Attending to pass order	0	6	8
Copy to serve, where necessary, per folio 4d.			

GENERAL RULES.

1. More than one attendance at presentation or hearing of bankruptcy petition will not be allowed unless ordered by the court, and memorandum be obtained to that effect.
2. Attendance upon the court for necessary purposes not included in the foregoing scale, each 0 6 8
 - Attending court on each sitting (including presentation and hearing of petition) 1 0 0
 - If by agent 2 0 0
 - Clerk's attendance at each sitting, when required 0 5 0
3. Service of petition, order, notice, or other process, each service 0 5 0
 - If the distance be more than three miles, 5d. per mile extra, or a further sum, in the discretion of the taxing officer, according to circumstances.
 - In cases of great distance, the service must be by agent, unless otherwise sanctioned.
4. Drawing and copy bill of costs, per folio 0 0 4
5. General attendances, each 0 6 8
 - Long and special attendances 0 13 4
 - (Or more, in the discretion of the taxing officer.)
6. Writing letters, each, special 0 5 0
 - Ditto, common 0 3 6
7. Circular letters, if above twenty each 0 1 0
 - If numerous, they must be printed.

- | | £ | s. | d. |
|--|---|----|----|
| 8. Attendances to insert advertisements | 0 | 3 | 4 |
| 9. Extra allowances for length of sittings, or other increased allowances must have the sanction of the court, and a memorandum to that effect obtained, or all such charges will be disallowed. | | | |
| 10. Vouchers must be produced on taxation for all payments, or they will be disallowed. | | | |
| 11. Bills of costs must be written lengthwise, on one side only, and <i>dates must be furnished to each item</i> , such dates not to be written in the margin, which is to be left clear for taxation. | | | |
| 12. In special cases, where counsel are not instructed to appear in court, a charge by the solicitor for the preparation of minutes of fact or evidence for his own use may be allowed. | | | |

N.B.—Other necessary matters not herein provided for may be allowed on a similar scale, as nearly as may be, or in accordance with the practice of the Supreme Court, according to the nature of the proceeding.

The allowances to witnesses shall be the same as in the High Court.

The following charges to the end shall be subject to reduction by agreement with the trustee, or increase with the sanction of the committee of inspection and official receiver:—

Broker's Allowances.

	£	s.	d.	
For inventory only—for every £100 or part of £100	0	10	0	
For inventory and valuation of chattel property—				
For the first £100	2	10	0	per cent.
For the next £400	1	10	0	„
All above up to £10,000	1	0	0	„
Above £10,000	0	10	0	„
For sales by private contract based on valuation	0	10	0	„
For sales by auction of chattel property, including all expenses except advertisements, which must in each case be authorised by the official receiver or the trustee, not exceeding—				

	£	s.	d.	
For the first £100	10	0	0	per cent.
For the next £400	7	10	0	„
For the next £500	6	0	0	„
All above £1,000	5	0	0	„

No higher allowance to be sanctioned without leave of the Board of Trade.

Costs of Surveys, Dilapidations, and Specifications.

From £2 to £5 in discretion of taxing officer.

Accountant's Charges.

	£	s.	d.
For preparing balance-sheet, investigating accounts, &c., principal's time exclusively so employed, per day of seven hours, including necessary affidavit, or such other sum as the Court may under special circumstances order	1	1	0
		to	
	5	5	0
Chief clerk's time	0	10	6
		to	
	1	11	6
Other clerk's time, per day of seven hours	0	7	6
		to	
	0	16	0

These charges to include stationary, except the forms used.

SELBORNE, C.

J. CHAMBERLAIN,

President of the Board of Trade.

SEALS OF COURTS.*

THE BANKRUPTCY ACT, 1883.

I, the Right Honourable Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, Do hereby, by virtue of the power vested in me by the Bankruptcy Act, 1883, Order that the High Court shall, from and after the first day of January, 1884, have and use in respect of bankruptcy proceedings therein a seal describing such Court as "The Supreme Court of Judicature in Bankruptcy;" and that every County Court shall, from and after the time aforesaid, have and use the same seal as heretofore.

SELBORNE, C.

FEES AND PER-CENTAGES.†

THE BANKRUPTCY ACT, 1883.

I, the Right Honourable Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, Do, by virtue of the powers vested in me by the Bankruptcy Act, 1883, prescribe that the fees and per-centages in the scales hereto annexed shall, from and after the first day of January 1884, be the fees and per-centages to be charged for or in respect of proceedings under the said Act, and shall be taken in any Court having jurisdiction in Bankruptcy and in any office connected with any such Court, and in the Board of Trade and any office connected therewith, and by any officer paid wholly or partly out of public moneys attached to any such Court or to the Board of Trade.

SELBORNE, C.

* See s. 137 of the Bankruptcy Act, 1883.

† See s. 128 of the Bankruptcy Act, 1883.

SCALE OF FEES AND PER-CENTAGES.

TABLE A.

	Amount.
	£ s. d.
Every declaration by a debtor of inability to pay his debts	0 5 0
Every bankruptcy notice	0 5 0
Every bankruptcy petition	5 0 0
Every bond with sureties	0 10 0
Every affidavit filed, other than proof of debts . . .	0 2 0
Every subpoena not exceeding three persons	0 5 0
For taking an affidavit or an affirmation, or attestation, upon honour in lieu of an affidavit or a declaration, except for proof of debts, for each person making the same	0 1 6
And in addition thereto for each exhibit therein referred to and required to be marked	0 1 0
On every proof of debt	0 1 0
For every witness sworn and examined by an officer of the Court or Board of Trade in his office, unless otherwise provided, including oath, for each hour or part of an hour	0 10 0
For an examination of witnesses by any such officer away from the office (in addition to reasonable travelling and other expenses) per day	3 0 0
Every petition under section 125 of the Act	5 0 0
Every special proxy or voting paper	0 0 6
Every receiving order under section 103 of the Act . .	5 0 0
Every application for an order of discharge	2 0 0
And for each creditor to be notified	0 1 0
Every application to the Court under sections 18 and 23 to approve a scheme, a fee computed at the rate of £1 upon the first £100, or fraction of £100 and 5s. upon each £25 or fraction thereof above £100 on the gross amount of the estimated assets	—
Every application to the Court under sections 18 and 23 to approve a composition, a fee computed at the rate of £1 upon the first £100 or fraction of £100 and 5s. upon each £25 or fraction thereof above £100 on the gross amount of the composition	—
Every application for search other than by petitioner, trustee, banker, or officer of the Court	0 1 0

	Amount.
Every application to a Court, except by the official receiver.	£ s. d. 0 5 0
Every office copy, each folio of 72 words	0 0 4
On every record of trial	5 0 0
or such less sum as the Court may specially order.	
Every allocatur by any officer of the Court for any costs, charges, or disbursements, where the amount allowed shall not exceed £4	0 2 0
Where the amount exceeds £4, for every £2 allowed or a fraction thereof	0 1 0

TABLE B.

	£ s. d.
Every application to an official receiver to appoint a special manager	0 5 0
Every application by a committee of inspection to the Board of Trade for a local banking account	1 0 0
Every order of the Board of Trade for a local banking account	2 0 0

On one copy of the cash book, showing assets realized, forwarded for audit by the official receiver or trustee, to the Board of Trade, a fee at the rate of £1 upon the first £100 or fraction thereof, and 5s. upon each £25 or fraction thereof beyond £100 on the gross amount of the assets realized and brought to credit. This fee is not to be charged where a fee has been taken on an application under sections 18 or 23.

Every application under section 162 to the Board of Trade for payment of money out of the bankruptcy estates account 2s. 6d.

TABLE C.

	£ s. d.
High bailiff attending Court each sitting	0 2 0
Serving every bankruptcy notice, bankruptcy petition, or subpoena within two miles, including affidavit of service	0 3 6
Executing every warrant of seizure, or search warrant, or warrant of apprehension, or order of commitment within two miles of Court House	0 10 0
Keeping possession under a warrant—for each day the man is actually in possession; including affidavit of possession being actually kept	0 4 6
(not less than 3s. 6d. of the above sum is to be paid to the man in possession, and his receipt produced).	

	£	s.	d.
High Bailiff's, or (in the London Bankruptcy District) officer's, man travelling to place of possession, or to execute a warrant of or order of commitment, or to serve a summons or subpoena, or for any other purpose specially directed by the Court, per mile . . .	0	0	5
His time, per day, where distance exceeds 10 miles . . .	0	4	6
His expenses, per day . . .	0	4	6
If High Bailiff of a County Court or bankruptcy officer of Supreme Court directed by the Court personally to travel, per mile . . .	0	0	7
If High Bailiff of a County Court or bankruptcy officer of Supreme Court directed by the Court personally to travel, his time, per day . . .	0	10	0
If High Bailiff of a County Court or bankruptcy officer of Supreme Court directed by the Court personally to travel, his expenses, per day . . .	0	10	0

TABLE D.

On the net assets realized or brought to credit by the official receiver, whether acting as interim receiver or as trustee, not being assets received and spent in carrying on the business of the debtor, £6 per cent.

On every payment under section 162 of money out of the bankruptcy estates account, 5s. on each £20 *ad valorem* on the amount paid.

	£	s.	d.
Room for meeting of creditors, summoned by official receiver, for each creditor present personally or by proxy at each meeting . . .	0	1	0
For each notice to creditor of a meeting . . .	0	1	0
Keeping possession, per day . . .	0	4	6
Travelling, and other reasonable expenses of official receiver . . .			
For official stationary, books, and forms, each estate, for every fifty creditors, or less . . .	1	0	0

TABLE E.

For every order of administration under section 122, two shillings in the pound on the total amount of the debts scheduled from time to time, excluding any fraction of a pound in such total.

TABLE F.

The fees and allowances payable on proceedings had after the thirty-first day of December 1883 in respect of any matter which was pending in any Court having jurisdiction in bankruptcy on the said day shall be the same as if those proceedings had been taken before such day, and shall be applied to the same purposes.

We, the undersigned Lords Commissioners of Her Majesty's Treasury, do hereby sanction the foregoing scales of fees and per-centages, and do direct that the fees to be taken by stamps shall be those mentioned in Tables A and B; and that the fees mentioned in Tables C, D, and E, shall be taken in money, and that the fees and allowances referred to in Table F shall be taken by stamps or money according as they have hitherto been taken: in respect of all proceedings in the High Court of Justice and the Court of Appeal the stamps to be used shall be Judicature fee stamps; and in respect of all other proceedings the stamps to be used shall be Bankruptcy fee stamps.

And we further direct that the stamp shall be affixed or the money paid in respect of every fee before the proceeding is had in respect of which the fee is payable, and that the charge to be made by the *London Gazette* for the insertion of each notice authorized by the Act or Rules shall be ten shillings, except in the cases of estates administered under Part VII. of the Act, in which cases the charge shall be three shillings and fourpence.

(Signed) B. W. DUFF.
H. J. GLADSTONE.

GENERAL RULES

AS TO

ADMINISTRATION ORDERS,

UNDER SECTION 122 OF THE BANKRUPTCY ACT, 1883.

—o—

INTRODUCTION.

ONE of the most important and novel provisions of the "Bankruptcy Act, 1883," is undoubtedly clause 122, which provides for small debtors a way and mode of release from their liabilities similar to, but not identical with, that which larger debtors have long enjoyed through the medium of bankruptcy. As the practice under the system of Administration orders, introduced by clause 122, and regulated by the rules before us, is quite new, it will probably be convenient that we should describe it in some detail; and that we should endeavour to give our non-professional readers especially, as clear an idea as we can of what is to be done either by a debtor to obtain the advantages of an administration order, or by creditors to prevent such an order being made a means of defrauding them of their just rights. In order to do this it will be as well

to insert here clause 122, and also one of the Bankruptcy rules, which, though made under section 127, really relates, as will be seen, to administration orders. Clause 122 is as follows:—

122.—Power for County Court to make administration order instead of order for payment by instalments.—(1.) Where a judgment has been obtained in a County Court and the debtor is unable to pay the amount forthwith, and alleges that his whole indebtedness amounts to a sum not exceeding fifty pounds inclusive of the debt for which the judgment is obtained, the County Court may make an order providing for the administration of his estate, and for the payment of his debts by instalments or otherwise, and either in full or to such extent as to the County Court under the circumstances of the case appears practicable, and subject to any conditions as to his future earnings or income which the Court may think just.

(2.) The order shall not be invalid by reason only that the total amount of the debts is found at any time to exceed fifty pounds, but in such case the County Court may, if it thinks fit, set aside the order.

(3.) Where, in the opinion of the County Court in which the judgment is obtained, it would be inconvenient that that Court should administer the estate, it shall cause a certificate of the judgment to be forwarded to the County Court in the district of which the debtor or the majority of the creditors resides or reside, and thereupon the latter County Court shall have all the powers which it would have under this section had the judgment been obtained in it.

(4.) Where it appears to the registrar of the County Court that the property of the debtor exceeds in value ten pounds, he shall, at the request of any creditor, and without fee, issue execution against the debtor's goods, but the household goods, wearing apparel, and bedding of the debtor or his family, and the tools and implements of his trade to the value in the aggregate of twenty pounds, shall to that extent be protected from seizure.

(5.) When the order is made no creditor shall have any remedy against the person or property of the debtor in respect of any debt which the debtor has notified to a County Court, except with the leave of that County Court, and on such terms as that Court may impose; and any County Court or inferior court in which proceedings are pending against the debtor in respect of any such debt shall, on receiving

notice of the order, stay the proceedings, but may allow costs already incurred by the creditor, and such costs may, on application, be added to the debt notified.

(6.) If the debtor makes default in payment of any instalment payable in pursuance of any order under this section, he shall, unless the contrary is proved, be deemed to have had since the date of the order the means to pay the sum in respect of which he has made default and to have refused or neglected to pay the same.

(7.) The order shall be carried into effect in such manner as may be prescribed by general rules.

(8.) Money paid into Court under the order shall be appropriated first in satisfaction of the costs of the plaintiff in the action, next in satisfaction of the costs of administration (which shall not exceed two shillings in the pound on the total amount of the debts) and then in liquidation of debts in accordance with the order.

(9.) Notice of the order shall be sent to the registrar of County Court judgments, and be posted in the office of the County Court of the district in which the debtor resides, and sent to every creditor notified by the debtor, or who has proved.

(10.) Any creditor of the debtor, on proof of his debt before the registrar, shall be entitled to be scheduled as a creditor of the debtor for the amount of his proof.

(11.) Any creditor may in the prescribed manner object to any debt scheduled, or to the manner in which payment is directed to be made by instalments.

(12.) Any person who after the date of the order becomes a creditor of the debtor, shall, on proof of his debt before the registrar, be scheduled as a creditor of the debtor, for the amount of his proof, but shall not be entitled to any dividend under the order until those creditors who are scheduled as having been creditors before the date of the order have been paid to the extent provided by the order.

(13.) When the amount received under the order is sufficient to pay each creditor scheduled to the extent thereby provided, and the costs of the plaintiff and of the administration, the order shall be superseded, and the debtor shall be discharged from his debts to the scheduled creditors.

(14.) In computing the salary of a registrar under the County Courts Acts every creditor scheduled, not being a judgment creditor, shall count as a plaintiff.

Then bankruptcy rule 267 is as follows :—

267. When an application to commit is made to a County Court and it appears to the Court that the total liabilities of the judgment debtor do not exceed fifty pounds, the Court may, if it thinks that an order for committal ought not to be made, make an administration order under section 122 of the Act in lieu of making a receiving order.

It will be seen on perusing the above clause and rule that an administration order may be made either (1), on the application of the debtor, or (2), on the mere motion of the County Court. In the first case the order will or may be made as soon as a judgment has been obtained against a debtor; in the latter the action of the Court will not take place, and the order will not be made, until an application is made for the committal of a debtor against whom judgment has been entered. So soon as the administration order is made, its effect and the further proceedings upon it will be the same, whether it was made on the application of the debtor under clause 122, or at the instance of the Court itself, under rule 127. But it seems by no means clear how far the Court will, in the latter case, adopt the procedure which the rules prescribe for the former case, or in what manner it will adapt a procedure based on the debtor's application to the case, when the Court, so to speak, takes the matter into its own hands, and makes an administration order in lieu of committing the debtor. In other words, it is doubtful whether, in the case contemplated by rule 127, the Court will at once act on its own view of the case, as disclosed on the application to commit, make an immediate order of administration under which the creditors may afterwards come in, prove their debts, and object under rules 7 and 8 to the mode in which payment is directed to be made by the order; or whether, on the other hand, the

Court will simply decline to make an order of committal until the debtor has had an opportunity of applying for an administration order under section 122, and in accordance with the rules made under that section. In the absence of any distinct statement of the manner in which it is proposed to work rule 267 of the Bankruptcy Rules, we cannot undertake to forecast the practice under it. And we shall therefore confine ourselves in the following pages to the practice under section 122, which is the subject of the rules to which these remarks are intended to serve as an introduction—i.e., to the practice in cases where a person against whom a judgment has been obtained, alleges his inability to pay, and applies for an administration order.

It will be seen that no debtor can take advantage of clause 122, or take steps to obtain protection against his creditors by means of an administration order until one or more of such creditors has obtained judgment against him in a County Court. As soon, however, as such a judgment has been obtained, a debtor who is (1) *unable to pay the amount forthwith*, and (2) who alleges that his whole indebtedness amounts to a sum *not exceeding £50 inclusive* of the debt for which the judgment is obtained, may apply to the Court to make an administration order. On his making an allegation of inability to pay the judgment debt, and of his total indebtedness not exceeding £50, the Court will (rule 2) stay all proceedings upon the judgment* until such time as the Court may direct, in order to give the debtor time to file, with the sanction of the Court, a

* It will be observed that the stay of proceedings thus granted only extends to proceedings upon the judgment in respect to which it is obtained. Proceedings in any other suit may still go on.

request in writing, according to Form No. 1, *post* p. 199. If the debtor is illiterate and unable to fill in this form, the registrar or his clerks are to fill it for him from the information he supplies. It will be seen, on turning to the form, that it contains a schedule setting forth the names, addresses, and descriptions of all the persons to whom the debtor is indebted, together with the amount of their debts. This request must be filed within the time given by the Court, or within such extended time as may be given by the judge or registrar. If it is not so filed the plaintiff in the suit on which the stay was obtained may (rule 2), upon giving the debtor and the registrar of the County Court two days' notice,* apply to the Court for an order for payment, and thereupon the registrar may make such order as if the debtor had not taken any step to obtain an administration order. The effect of this provision, is to make the stay of proceedings on the judgment last, not only to the day fixed for the debtor to file his request, but until the expiration of this two days' notice, which cannot be given until the day after the last day given to the debtor for filing his application.

Assuming, then, the request has been duly filed in accordance with rules 1 and 2, the registrar of the County Court will (by rule 3) send notice to the debtor himself, and also to each of the creditors, enumerated in the schedule attached to the debtor's request, informing them of the day and the hour at which the debtor's application for an administration order will be heard. These notices must be in the

* The two days' notice is not inclusive of the day on which the notice was given. Thus, if it is intended to apply on a Wednesday, notice must be given on Monday.

forms numbered respectively No. 2 and No. 3, *post* p. 200. These notices are to be sent by post ten clear* days before the day appointed for hearing the application.

It will be seen, on referring to Form No. 3, "Notice to Creditors," that it contains an intimation that a list of creditors, with the amounts respectively owing to them, can be inspected on application at the registrar's office. If any creditor to whom notice of the debtor's application has been sent desires to object to any debt scheduled by the debtor, he must (rule 4) send notice not only of his objection, but of the grounds thereof (1) to the registrar of the Court, (2) to the debtor, and (3) to the creditor whose claim is objected to, five *clear* days before that fixed for the hearing of the application. Unless he duly sends these notices a creditor will not be *entitled* to object to the claim of any other creditor; but the Court may, *if it thinks fit*, entertain such an objection (on the hearing of the debtor's application), although no notice thereof has been given. The course of proceedings on the hearing of the debtor's application is regulated by rule 5 (*post* p. 194). It will be seen therefrom that the debtor must be present and answer all questions put by the Court, or which the Court allows to be put by the creditors; and that all creditors, whether they have or have not received notice of the application, may attend and prove their claims. All claims set out in the debtor's schedule will, however, be taken

* By ten clear days is meant ten days exclusive of the day of giving the notice and the day on which the application is to be heard. Thus notice for an application to be heard on the 12th must be given on the 1st, and so on.

to be proved unless they are objected to by a creditor. If any claims are objected to either by the debtor or any other, they will be dealt with according to subsection (d) of rule 5 (*post* p. 194). Any creditor who has proved, and, *by leave of the Court*, any creditor proof of whose claim has been adjourned—and also, by the like leave of the Court, any person on their behalf —“will be entitled to be heard and to adduce evidence.” The rule does not set forth the points on which they are to be heard, or as to which they are to be permitted to adduce evidence. We apprehend that they will be entitled to be heard or to adduce evidence either (1) for the purpose of disallowing the claim of any other creditor, or (2) of showing that the debtor is not entitled to an administration order, or (3) of guiding or influencing the Court in exercising its discretion as to the terms which the Court will impose upon the debtor. If it appears on the examination of the debtor, or from the statements made or evidence adduced by creditors, that the debtor owes more than £50, the Court cannot make an administration order, although, if an order be made on the supposition that the debts do not exceed £50, and it afterwards turns out that they do in fact exceed this sum, the order will not thereby become invalid (s. 122 (2)). The Court, we need hardly say, is not *bound* to make any administration order in the case of any person who comes before it and states or even proves that he is indebted in a sum not exceeding £50. It is only empowered to do so by clause 122, (1) which provides, as we have seen, that the County Court “*may* make an order for the administration of his [the debtor’s] estate by instalments or otherwise,

and either in full or to such extent as to the County Court under the circumstances of the case appears practicable, and subject to any conditions as to his future earnings which the Court may think just." And subsection (8) of rule 5 provides that in determining whether the debtor is to pay his debts in full, or to any less extent, the Court is to take into consideration various circumstances there set forth (see *post* p. 195). It will, we apprehend, be open to any creditor at the hearing to give or adduce evidence of any of these circumstances. Moreover, it will be open to the creditors either to adduce reasons or evidence for the purpose of inducing the Court to exercise the power which it possesses under section 122 (3) of the Act (see *ante* p. 180) to transfer the case to some other County Court, where it may be more economically dealt with.

The Court having taken all the circumstances of the case into consideration, will, if it thinks fit, make such an order, called "an order of administration." This order will follow Form No. 4, *post* p. 201. It appears from that form that it will be an order that the debtor should pay, either in full or to the extent of so many shillings in the pound, not only the debts proved up to that time (which are set out in a schedule to the order) but "all others now due and which may hereafter be duly proved." The Court may (by rule 12), if it thinks fit, or the majority of the creditors present at the hearing desire it, appoint a person to have the conduct of the order and to take such proceedings as may be necessary for its enforcement. A copy of the administration order is to be sent to the debtor, and notice (see Form No. 5, *post* p. 201) of its having been made is

also to be sent to each creditor. Notice of the order must also (s. 122) (9) be sent to the registrar of the County Court judgment (Form No. 12, *post* p. 206), and must be posted up in the office of the County Court of the district in which the debtor resides.

The administration order having been made, "no creditor will (by s. 122) (5) have any remedy against the person or property of the debtor in respect of any debt *which the debtor has notified to the County Court*, except with the leave of that County Court, and on such terms as that Court may impose." It will be seen, therefore, that the debtor will only be relieved from proceedings by creditors whose debts he has disclosed. If there are any others whose names and debts he has not disclosed it will be perfectly open to them to take proceedings in the usual way, notwithstanding the administration order. At the same time, these undisclosed creditors are not driven to the necessity of abandoning their debts or proceeding against a man from whom they can have little or no chance of recovering anything. They will be entitled to come in and prove their debts before the registrar of the County Court, who will, if satisfied of the validity of their claims, add their names and debts to those already included in the schedule to the administration order (*see* s. 122) (10), rules 9, 10, and 11, *post* p. 196, and forms 9 and 10, *post* pp. 205 and 205).

It must be remarked that after an administration order has been made no creditor to whom notice of the debtor's intention to apply for an administration order has been duly sent, under rule 3, will be entitled to object to any debt scheduled, or to the manner in which payment is directed to be made by the order

unless he proves to the satisfaction of the Court that the notice did not reach, and that he had no reasonable notice of the proceedings in any other way. A creditor to whom notice has not been duly sent will thereupon, it appears, be at liberty, on coming in and proving his debt, both to object to the validity of any debt already enclosed in the schedule or to the manner in which payment is ordered to be made. But then that is subject to the proviso at the end of rule 8 (*post* p.196), that "no creditor shall be entitled to make any such objection after the expiration of two calendar months from the date of the order."

It will be seen from s. 122 (12) that the power to come in and prove after the making of an administration order is not confined to creditors whose debts were contracted before the date of the administration order. But it must be remarked that creditors whose debts were contracted after the date of the order will not be "entitled to any dividend under the order until those creditors who are scheduled as having been creditors before the date of the order have been paid to the extent provided by the order." And by rule 17 it is provided that although all persons scheduled as creditors after the order of administration, under sub-section 12 of s. 122, are to rank on a footing of equality after the creditors scheduled as creditors before the order of administration, no payment made to any such creditors is to be disturbed by reason of any subsequent proof by any other creditor under this sub-section.

If, subsequently to the order of administration having been made, it is made to appear to the registrar of the County Court that the debtor has property of a value exceeding £10, the registrar must

then (s. 122) (4), at the request of any creditor, and without fee, issue execution against the debtor's goods. The household goods, wearing apparel, and bedding of the debtor or his family, and the tools and implements of his trade to the value in the aggregate of £20 will, however, be protected from seizure. It is, therefore, only goods other than these, or these goods so far as they exceed £20, which can be seized. The rules seem defective in not providing for the appropriation of any sum which may be realized by an execution. It is not clear whether the execution creditor will be entitled to retain it, or whether it will go *pro tanto* in substitution for, or will be added to, the personal payments which the debtor is required to make by the order of administration.

Section 122 (8) provides for the manner in which money paid into the Court under an administration order is to be appropriated. It will be observed that the costs of the order of administration are not to exceed 2s. in the pound on the total amount of the debts.

The mode of enforcing the payment of the sums required to be paid by the administration order is pointed out by rule 13 (p. 197), which provides for the issue of a judgment summons (*see* Form No. 7, *post* p. 203) whenever an instalment becomes in default. If the debtor does not, on the hearing of this summons, prove affirmatively that he had not means to pay the instalment, he will be taken (s. 122 (6) and rule 13, *post* p. 197) to have had such means, and thereupon he will be committed to prison, in accordance with the usual course, on a judgment summons (*see* the Debtors' Act, 1869 (32 & 33 Vict. c. 62, s. 5), for such term,

not exceeding six weeks, as the Court may direct. (For form of order of commitment *see* Form No. 8, *post* p. 203). The Court, while making an order of committal, may suspend its execution, in order to give the debtor time to pay the instalment due. In that case (*see* rule 15, p. 197) the order of administration will be suspended for the same time. (*See* rule 16, p. 197, as to the calculation of the amounts in arrear under an order of administration.) If, on the contrary, the Court is satisfied that the debtor had not the means to pay the instalment, it may direct that the order of administration shall be deemed to have been suspended during the period covered by the default. And under rules 14 and 15 (p. 197) the Court has a general power to suspend an order of administration at any time during its currency, or to vary it so far as relates to the payment and the amount of the instalments ordered. But no order for the payment of a composition is to be varied or set aside unless the same has (1) been obtained by fraudulent misrepresentation, or (2) the amount of the total indebtedness is proved to exceed £50. Although the Court may set aside the order on the latter ground, it will not be bound to do so, s. 122 (4), providing "that the order shall not be invalid by reason only that the total amount of the debts is found to exceed £50; but in such cases the County Court *may, if it thinks fit*, set aside the order."

Section 122 (13) provides, as we have seen, that when the amount received under the order is sufficient to pay each creditor scheduled to the extent thereby provided, and the costs of the plaintiffs, and of the administration, the order shall be superseded, and the

debtor shall be discharged from his debts to the scheduled creditors. Under this provision it would appear, and it is, no doubt, the intention of the act, that before he can obtain his discharge, a debtor must pay the required composition upon all his scheduled debts, whether they were contracted before or after the order of administration. But the language of the form of order (No. 4, *post* p. 201) is not entirely consistent with this view. The first paragraph of the form certainly seems only to contemplate payments in respect of debts "now incurred." The form appears to require amendment, inasmuch as it does not, or may not, carry out the provisions of the act, which must, of course, prevail.

GENERAL RULES AS TO ADMINISTRATION ORDERS

UNDER SECTION 122 OF THE

BANKRUPTCY ACT, 1883.

It is ordered as follows :—

1. A debtor desiring to obtain an administration order under section 122 of the Act shall file with the Registrar of the Court a request in writing according to the form in the Appendix hereto.

When the debtor is illiterate and unable to fill up such request the Registrar or his clerk shall fill up the same from the information given by such debtor.

See Form 1, *post* p. 199.

2. When a debtor forthwith after a judgment has been obtained against him alleges that he is unable to pay the amount of the judgment forthwith, and that his whole indebtedness amounts to a sum not exceeding £50, all proceedings upon such judgment shall be stayed for such time as the Court may direct to enable the debtor to file a request pursuant to the last preceding Rule. If the debtor does not file his request within the time directed, or such extended time as may be allowed by the Judge or Registrar, the plaintiff may upon giving two days' notice in writing to the debtor and to the Registrar of the Court apply to the Registrar for an order for payment, and thereupon

the Registrar may make such order as if such allegation had not been made.

3. Upon a request being filed the Registrar shall as soon as may be send a notice according to the form in the Appendix hereto to all the creditors scheduled by the debtor of the day and hour when the debtor's application will be heard, such notice shall be sent by post ten clear days before the day appointed for hearing the application.

The Registrar shall also in like manner send notice to the debtor according to the form in the Appendix hereto.

See Forms Nos. 2 and 3, p. 200.

4. Any creditor to whom the notice of the application has been sent, and who desires to object to any debt scheduled by the debtor, must send notice thereof to the Registrar of the Court and to the debtor and the creditor whose claim is objected to five clear days before the day fixed for the hearing of the application, and therein he shall state the grounds of his objection. Such notice may be sent by post. The Court may, if it sees fit, proceed to hear the objection although such notice has not been given.

5. Upon the application coming on for hearing the course of proceedings shall be as follows :—

- (a.) The debtor shall attend in person unless the judge otherwise directs.
- (b.) Any creditor whether he has received a notice of the application or not may attend the hearing thereof and prove his claim.
- (c.) All claims set out in the Schedule shall be taken to be proved unless objected to by a creditor.
- (d.) All creditors whose claims are objected to either by the debtor or any other creditor shall prove their claims in like manner as upon the hearing of an ordinary summons, provided that the judge may in his discretion

direct the proof of any claim to be adjourned upon any terms that he may think fit, and may thereupon either adjourn the further consideration of the application or proceed to determine the same, in which latter case each claim, if and when proved, shall be added to the Schedule of creditors who have proved their debts.

No person shall be entitled to have any question in issue determined by a jury unless by order of the judge.

- (e.) The debtor shall answer all questions put and allowed by the Court.
- (f.) Any creditor who has proved, and by leave of the Court any creditor the proof of whose claim has been adjourned, and with the like leave any other person on their behalf, shall be entitled to be heard and to adduce evidence.
- (g.) In determining whether the debtor shall pay his debts in full, or to any less extent, the Court shall take into consideration the circumstances under which the indebtedness was incurred, and particularly whether the same or any part thereof was incurred by means of fraud, and whether the debtor has been guilty of idleness, improvidence, gambling, or intemperance.

6. When an administration order is made, a copy thereof shall be sent by post by the registrar to the debtor, but it shall not be necessary to prove the receipt thereof by the debtor before taking any proceedings upon such order.

Notice of the said order having been made shall be sent to each creditor; such notice shall be sent by post and shall be in accordance with the form in the Appendix hereto.

7. Any creditor entitled to object under sub-section 11 of section 122 of the Act must give notice in writing to the Registrar of his objection and of the grounds thereof, and the Registrar shall thereupon name a day when such objection may be heard. An application to allow such objection shall be heard by the Court ex parte in the first instance, and the Court may dismiss such application, or it may direct the same to be renewed upon notice being given to such persons and upon such terms as to security for costs and otherwise as the Court may think fit.

8. After an administration order has been made no creditor to whom notice of hearing of the application has been duly sent under rule 3, shall be entitled to object to any debt scheduled, or to the manner in which payment is directed to be made by the order, unless he proves to the satisfaction of the Court that such notice did not reach him, and that he has not received reasonable notice of the proceedings in any other manner.

No creditor shall be entitled to make any such objection after the expiration of two calendar months from the date of the order.

9. Any creditor desirous to prove a debt under sub-sections 10 and 12 of section 122 of the Act shall send in his claim in writing to the Registrar, who shall thereupon send notice to the debtor of the same according to the form in the Appendix hereto.

See Form No. 9, p. 204.

10. If the debtor does not appear and dispute the claim within the period allowed by the notice, the claim shall be deemed to be proved, and shall be added to the Schedule accordingly, and notice thereof shall be sent to the creditor.

See Form No. 10, p. 205.

11. If the debtor objects to the claim and gives notice thereof in accordance with the terms of the

notice, the Registrar shall appoint a day for the hearing of such objection and give notice thereof to both parties.

12. The Court may, if it think fit, or the majority of the creditors present at the hearing of the application who may have proved desire it, appoint, subject to removal by the Court at any time, any person to have the conduct of the order.

It shall be the duty of any person so appointed to take all proper proceedings for enforcing the terms of the order, but in case of his neglect to proceed or of urgency any creditor may take them.

13. A judgment summons shall be issued without fee and be served personally five clear days before the return day thereof, and all proceedings thereon shall be taken in like manner as if it were a judgment summons issued in an action in the County Court, except that the debtor as provided by the statute must prove that he has not had the means to pay the sum in respect of which he has made default; and if thereupon the Court is satisfied that he has not had the means to pay the sum in respect of which he has made default, the Court may direct that the order of administration shall be deemed to have been suspended during the period covered by such default.

See Form No. 7, p. 203.

14. The court may from time to time suspend the operation of any order or vary the same so far as relates to the payment and the amount of the instalments ordered, but no order made for the payment of any composition shall be varied or set aside, unless the same has been obtained by fraudulent representation, or the amount of the total indebtedness is proved to exceed 50%.

15. When an order of committal is made upon the hearing of any judgment summons, and the execution of such order is suspended for a specified time to enable the debtor to pay the amount in respect of the non-payment of which such order was made, the order of

administration for payment shall be also suspended during such time.

16. In calculating the amount in arrear under an order of administration any instalments accruing due during the period for which such order has been suspended shall not be reckoned in such amount.

17. All persons scheduled as creditors under sub-section 12 of section 122 of the Act before the order of administration is superseded under sub-section 13 of the Act shall rank *pari passu inter se*, subject to the priority given by sub-section 12 to those creditors who are scheduled as having been creditors before the date of the order of administration, but no payment made to any such creditor by way of dividend or otherwise shall be disturbed by reason of any subsequent proof by any other creditor under sub-section 12.

18. The Registrar shall keep account of the moneys received and payments made under any administration order in such manner as may be from time to time directed by the Commissioners of Her Majesty's Treasury.

1.

BANKRUPTCY ACT, 1883, SEC. 122.

No. of Plaint
holden at
In the County Court of
Between
and
Plaintiff.
Defendant.

I, *A.B.*, of, &c., the above-named defendant, state that a judgment was obtained against me in this action on the day of 18 , for the sum of £ , and that I am unable to pay the amount forthwith.

I am indebted to the several persons, including the plaintiff in this action, mentioned in the Schedule hereto in the sums set opposite their names not exceeding in the whole £50.

I hereby request that an order may be made for the administration of my estate and the payment of my debts under the 122nd section of the Bankruptcy Act, 1883.

Dated, &c.

SCHEDULE.

Name of Creditor.	Address.	Description.	Amount of Debt.

NOTE.--If any of the above creditors, in addition to the judgment creditor, have sued you in any Court you must produce the summons or order in each case.

The judgment debt must be inserted as well as all other debts.

2.

Notice to Debtor.

BANKRUPTCY ACT, 1883.

In the County Court of holden at (Seal.)
 IN the matter of an application for an administration order against
 of, &c. debtor.

TAKE NOTICE that your application for an administration order
 under section 122 of the Bankruptcy Act, 1883, will be heard at the
 County Court House , in the county of ,
 on the day of 18 , at the hour of
 in the noon.

You must bring with you to the Court all your books of account,
 invoices, papers, summonses, or other documents relating to any debts
 owing by you.

To A.B., of

Dated

3.

Notice to Creditors.

BANKRUPTCY ACT, 1883, SEC. 123.

In the County Court of holden at (Seal.)
 IN the matter of an application for an administration order against
 of, &c. debtor.

WHEREAS the above-named debtor has filed a request stating that
 a judgment has been obtained against him in this Court, and that
 he is unable to pay the same forthwith, and alleging that he is in-
 debted to you and others in various sums amounting in all to the
 sum of £ (including the said judgment debt) and has
 applied for an administration order under the 122nd section of
 the Bankruptcy Act, 1883.

This is to give you notice that the Court will proceed to hear
 and determine the said application at a Court to be holden at the
 County Court House on the day of ,
 18 , at the hour of in the noon.

The debtor states that he owes you the sum of £ .

A list of creditors with the amounts stated to be respectively
 owing to them can be inspected on application at the Registrar's
 office.

If you wish to claim more than the sum stated to be owing to you,
 or wish to be heard upon such application, you must attend the Court
 on the day above mentioned.

If you wish to object to the debt of any creditor named in the
 list you must give notice thereof to the Registrar of the Court and to

the debtor and such creditor five clear days before the day fixed for the hearing of the application.

If you claim more than the amount stated to be due to you, you should bring with you to the Court any witnesses, books, &c., necessary to prove your claim.

Dated, &c.

4.

Order of Administration.*

In the County Court of _____ holden at _____ (Seal.)
In the matter of an administration order against A.B.,
of, &c. _____ debtor.
The _____ day of _____ 18 _____

6.

Warrant of Execution.

In the County Court of _____, holden at _____ (Seal.)
 In the matter of, &c. _____ debtor

WHEREAS an administration order was made against the above-named debtor on the _____ day of _____ 188____, and whereas it has been made to appear to the (or a) registrar of the Court that the property of the debtor exceeds in value 20 (or 10) pounds.

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the debtor wheresoever they may be found within the district of this Court (except the household goods, wearing apparel, and bedding of the debtor or his family, and the tools and implements of his trade to the value in the aggregate of 20 pounds), the sum stated at the foot of this warrant, and also to seize and take any money or bank notes (whether of the Bank of England or of any other bank), and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and to pay what you shall have so levied to the Registrar of this Court, and make return of what you have done under this warrant immediately upon the execution thereof.

Given under the seal of the Court, this _____ day of _____ 188____.

To the High Bailiff of the said Court, and others the Bailiff, thereof.

Amount to be levied*	£	s.	d.	By the Court,
£				Registrars of the Court.

* The amount to be levied will be—1st, the costs of the plaintiff; 2nd, the costs of the administration, i.e., 2s. in the £ on the amount of debts then ascertained; and, 3rdly, the total amount of the debts scheduled, or so much thereof as the Court may have ordered to be paid.

NOTICE.—The goods and chattels are not to be sold until after the

of five days next following the day on which they were seized, as they be of a perishable nature, or at the request of the indant.

7.

Judgment Summons.

By **BANKRUPTCY ACT, 1883, SEC. 122, and the DEBTORS' ACT, 1869.**
 in the County Court of _____ holden at _____ (Seal.)
 in the matter of, &c. _____ debtor.
 (Seal.)

WHEREAS an administration order was made against you, the above-named debtor, in this Court, on the _____ day of _____ 18____, the payment of your debts in full (or to the extent of _____ in £) by instalments of _____ shillings for every _____ days.
and whereas you have made default in payment of the sum payable in pursuance of the said order, you are therefore hereby summoned to appear personally in this Court, at _____, on the _____ day of _____ 18____, at the hour of _____ in the _____ noon, to be examined on oath by the Court touching the means you have or may have since the date of the order to satisfy the sum payable in pursuance of the said order, and also to cause why you should not be committed to prison for such default; and you are hereby warned that as you can prove to the contrary, you will under the statute be bound to have had the means, and to have refused or neglected to provide the sum in respect of which you have made default.

Dated this _____ day of _____ 18____.
 _____ Registrar of the Court.
 £ s. d.

Amount of instalments due and upon payment of which
 no further proceedings will be had until default in payment
 of next instalment

8.

Order of Commitment.

"The **BANKRUPTCY ACT, 1883, and the DEBTORS' ACT, 1869.**"
 In the [title of Court ordering committal]. (Seal.)
 No. of order of administration.
 No. of judgment summons.
 No. of order.

In the matter of, &c. _____ debtor.
 the high bailiff and others the bailiffs of the said Court and all other officers within the jurisdiction of the said Court, to the sheriff or keeper of the [prison used by the Court, if the debtor is resident within the jurisdiction; if not, no name of prison to be inserted].

Whereas an administration order was made against the above-named

debtor on the day of for the payment of his debts in full [or to the extent of in the £], by instalments of shillings for every days.

And whereas the debtor has made default in payment of payable in pursuance of the said order.

And whereas a summons was duly issued out of this Court, by which the debtor was required to appear personally at this Court on the day of , 187 , to be examined on oath touching the means he had then or had had since the date of the order to satisfy the sum then due and payable in pursuance of the order, and to show cause why he should not be committed to prison for such default, which summons has been proved to this Court to have been duly served on the debtor.

And whereas, at the hearing of the said summons it has not been proved to the satisfaction of the Court that the debtor has not [or has not had] since the date of the order the means to pay the sum then due and payable in pursuance of the order.

And whereas the debtor has refused [or neglected] to pay the same, and has shown no cause why he should not be committed to prison.

Now therefore, it is ordered that, for such default as aforesaid, the debtor shall be committed to prison for days, unless he shall sooner pay the sum stated below as that upon the payment of which he is to be discharged.

These are therefore to require you, the said high bailiff, bailiffs, and others, to take the debtor, and to deliver him to the governor or keeper of the , and you the said governor or keeper to receive the defendant, and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of this [insert date of order] day of 18 .

Registrar of the Court.

£ s. d.

Total amount of instalments due at the time of issuing of the judgment summons and upon payment of which the prisoner will be discharged - - - -

N.B.—Where this Order is sent to a foreign court under s. 104 of County Courts Act, 1846, the registrar of that court shall insert the name of the prison used by the foreign court.

9.

Notice to Debtor of Creditor's Claim.

In the County Court of Holden at (Seal.

No. of administration order.

In the matter, &c., debtor,

TAKE NOTICE that A.B., of, &c., states that you owe him the sum

of £ for () and claims to be scheduled as a creditor for that sum, and further take notice that if you wish to dispute such claim you must within seven days from this date tear off and return the notice at the foot hereof to the office of the Registrar.

If you do not return the notice as above mentioned the said claim will be taken to be admitted by you and will be added to the Schedule accordingly.

To E. F., &c.

NOTICE.

No. of administration order

I object to the claim of A. B., of

against me.

Debtor.

10.

Notice to Creditor that his Claim is not objected to.

In the County Court of

holden at

(Seal.)

No. of administration order.

In the matter of, &c.

debtor.

TAKE NOTICE that the debtor has not given notice of his intention to dispute your claim, and that the same has been added to the Schedule of proofs.

To A. B., &c.

You must retain this notice and produce it when you come to the office to receive dividends or for any other purpose.

11.

Superseding Order of Administration.

BANKRUPTCY ACT, 1883, SEC. 122.

In the County Court of

holden at

(Seal.)

on the day of

18 .

In the matter, &c.

debtor.

WHEREAS the above-named debtor under this order has paid into Court a sum sufficient to pay each creditor scheduled to the extent thereby provided, and the costs of the plaintiff and of the administration, it is ordered that such order is superseded and the debtor is discharged from his debts to the creditors scheduled under such order.

By the Court.
Registrar.

No. 12.

*Notices of Orders of Administration made at the County Court
of holden at on the day
of 18 , to be sent to the Registry of County Court
Judgments, within three days of the making of the Order.*

Name of Debtor.		Residence.		Description.	Gross Amount of Debts.	Number of Order.
Surname.	Christian Name or Names.	Place, Street, &c.	County.			
					£ s. d.	

I hereby certify that the above return is correct.

Seal of Court.

(Signed) SELBORNE-C.

I concur,

J. CHAMBERLAIN,

President of the Board of Trade.

December 1, 1883.

Registrar.

ORDERS

UNDER THE

BANKRUPTCY ACT, 1883.

DATED 1st JANUARY, 1884, AND 7th JANUARY, 1884.

I, the Right Honourable Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, by virtue of the 94th section of the Bankruptcy Act, 1883, and all other powers enabling me in that behalf, do hereby order that on and after the 1st day of January 1884, until further order, all matters pending in the London Bankruptcy Court at the commencement of the said Act, and all matters which would have been within the exclusive jurisdiction of the London Bankruptcy Court if the said Act had not passed, and all matters in respect of which jurisdiction is given to the High Court by the said Act, shall be ordinarily transacted and disposed of by or under the direction of the Honourable Mr. Justice Cave, one of the Judges of Her Majesty's High Court of Justice; and that the said Honourable Mr. Justice Cave shall, on and after the day aforesaid, and until further order, be the Judge assigned for that purpose pursuant to the said Act.

The 1st day of January, 1884.

(Signed) SELBORNE C.

I, the Right Honourable Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, by virtue of the 94th section of the Bankruptcy Act, 1883, and all

other powers enabling me in that behalf, do hereby direct that on and after the 1st day of January, 1884, all matters pending in the London Bankruptcy Court at the commencement of the said Act, and all matters which would have been within the exclusive jurisdiction of the London Bankruptcy Court if the said Act had not passed, and all matters in respect of which jurisdiction is given to the High Court by the said Act, shall be assigned, until further order, to the Queen's Bench Division of the High Court of Justice.

The 1st day of January, 1884.

(Signed) SELBORNE C.

I, the Right Honourable Roundell, Earl of Selborne, Lord High Chancellor of Great Britain, by virtue of the 103rd section of the Bankruptcy Act, 1883, and all other powers enabling me in that behalf, do hereby order that on and after the 1st day of January, 1884, the jurisdiction and powers under the fifth section of the Debtors' Act, 1869, now vested in the High Court of Justice shall be assigned to and exercised by the Judge to whom Bankruptcy business is assigned; and do further order that the said jurisdiction and powers shall be delegated to and exercised by the Bankruptcy registrars of the High Court, subject to an appeal by any person affected by any order or decision of such Registrars to the Judge to whom Bankruptcy business is assigned: Provided that if any case shall appear to the Bankruptcy Registrar to be one for committal he shall adjourn the same to be heard before the Judge to whom Bankruptcy business is assigned.

The 1st day of January, 1884.

(Signed) SELBORNE C.

I, the Honourable Lewis William Cave, one of the Justices of the High Court of Justice, being the Judge assigned in pursuance of the 94th section of the Bankruptcy Act, 1883, to transact and dispose of matters in bankruptcy, do hereby by virtue of the said Act and

of the Bankruptcy Rules, 1883, and of all other general rules, orders, and powers enabling me in that behalf, direct as follows:—

1. On and after the 1st day of January, 1884, until further order, the Registrars in Bankruptcy of the High Court shall hear and determine at the Bankruptcy Buildings, Lincoln's Inn Fields, the following matters and applications which by the said Rules are directed to be heard and determined in open court, that is to say:—

- (a.) The public examination of debtors ;
- (b.) Applications to approve a composition or scheme of arrangement ;
- (c.) Applications for orders of discharge or certificates of removal of disqualifications.

2. On and after the 1st day of January, 1884, until further order, the Registrars in Bankruptcy of the High Court shall hear and determine at the Bankruptcy Buildings, Lincoln's Inn Fields, all matters and applications which by virtue of the said Rules may be heard and determined in chambers, except the following matters and applications, that is to say:—

- (a.) Applications by a creditor for leave to commence any action or other legal proceedings under Section 9.
- (b.) Deciding on the validity of an objection by the Board of Trade to the appointment of a trustee under Section 21.
- (c.) Applications by a trustee for leave to disclaim a lease under section 55.
- (d.) Applications for an order rescinding any contract made with the bankrupt under section 55.
- (e.) Opposed application for a vesting order under section 55.
- (f.) Special cases stated for the opinion of the High Court under section 97.
- (g.) Applications to transfer actions under section 102 (4).

- (h.) Applications by the Board of Trade under section 102 (5).
- (i.) Applications by a trustee for leave to commence an action in the names of the trustee and of the bankrupt's partner under section 113.
- (k.) Applications for the approval or for the amendment of issues of fact to be tried by a jury under Rule 84.
- (l.) Applications for direction as to the trial of issues of fact under Rule 86; and
- (m.) Applications for directions as to the trial of actions brought by a trustee under Rule 91.

3. Any matter or application which a Registrar has jurisdiction to hear and determine under the above-mentioned Act and the General Rules made in pursuance thereof, and this order, or any of them, except judgment debtors summonses under section 5 of the Debtors' Act, 1869, shall be adjourned to be heard before the Judge in open court:—

- (a.) If all the contending parties require the matter or application to be so adjourned;
- (b.) If any of the contending parties require, or in the case of an *ex parte* motion, if the applicant requires the matter or application to be so adjourned, and the Registrar is of opinion that it involves a question of difficulty on the ground of novelty or otherwise.

4. Where any matter or application is adjourned to be heard by the Judge, the Registrar shall certify to the Judge whether the matter or application is adjourned at the request of all or of some and which of the parties, and in the latter case the Registrar shall also state shortly the question of difficulty involved.

5. Where any matter or application is so adjourned by a Registrar sitting in open Court it shall be adjourned to be heard by the Judge in open Court. Where any matter or application is so adjourned by a Registrar sitting in Chambers, it shall, if any of the

contending parties, or in the case of an ex parte motion, if the applicant so requires, be adjourned to be heard by the Judge in open Court; but otherwise it shall be adjourned to be heard by the Judge in chambers.

The 1st day of January 1884.

(Signed) LEWIS W. CAVE.

REGULATIONS for the conduct of business in Bankruptcy before the Judge, and for the hearing of Appeals and Adjourned Summonses under the fifth section of the Debtors' Act, 1869.

1. All matters and applications in Bankruptcy which by the Act or the Rules, or the general or special directions of the Judge, are to be heard before him, except matters and applications adjourned by a Registrar to be heard by the Judge in chambers, will be heard in open Court unless otherwise ordered.

2. The Judge will sit in open Court at the Royal Courts of Justice on every Monday during the sittings of the High Court, unless notice to the contrary is given, and if the business set down for any Monday is not disposed of on that day the Judge will sit on the following Tuesday for the purpose of completing such business.

3. All matters and applications for hearing before the Judge in open Court, except ex parte motions, shall be set down in a list to be kept at the office of the Senior Registrar, and will be heard in the order in which they are set down in such list except in cases of emergency or for any other sufficient cause.

4. Ex parte motions will be heard immediately on the sitting of the Court before all other matters and applications, and, in case of emergency, may by leave of the Judge be made at any time during the day.

5. The hearing of applications for the committal of any person to prison, the hearing of objections by the Board of Trade to the appointment of a Trustee, and the hearing of matters and applications adjourned by

a Registrar to be heard before the Judge in open Court, shall take place on such Monday during the sittings as the Registrar shall appoint, or so soon thereafter as the matter or application can be heard.

6. Every notice of motion to be heard before the Judge shall name some Monday during the sittings for hearing the motion, and such motion will be heard on the Monday so named, or so soon thereafter as the motion can be heard.

7. The Judge will sit in chambers at the Bankruptcy Buildings, Lincoln's Inn Fields, on every Saturday during the sittings of the High Court (unless notice to the contrary is given) for the purpose of hearing matters and applications adjourned by the Registrars to be heard before the Judge in chambers, and also for the purpose of hearing appeals and adjourned summonses under section 5 of the Debtors' Act, 1869. In case of emergency *ex parte* motions may also be made before the Judge in chambers.

8. All such matters, applications, appeals, and adjourned summonses for hearing before the Judge in chambers shall be set down not later than 1 o'clock on the previous Friday in a list to be kept at the office of the Senior Registrar, and will be heard in the order in which they are set down in such list.

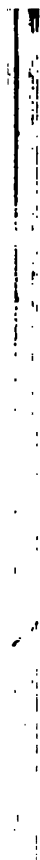
9. In the ensuing Hilary Sittings (except in cases of emergency with respect to which such arrangements as may be necessary will be made by a Judge to be named for that purpose by the Lord Chancellor under the Act) the Judge will not sit in open Court until Monday the 18th of February, nor in chambers until Saturday the 16th of February. Appeals from County Courts standing for hearing will be heard on Monday and Tuesday, the 18th and 19th of February, and on every subsequent Monday and Tuesday during Hilary Sittings, such appeals shall be set down for hearing in the Senior Registrar's list of matters and applications for hearing by the Judge in open Court, and will be heard in the order in which they are so set down. Appeals now standing for hearing shall forthwith be

set down by the clerk in charge of such list for hearing on Monday, the 18th February.

10. These regulations shall come into operation from and immediately after the date hereof.

Dated the 7th day of January, 1884.

(Signed) LEWIS W. CAVE.



BOARD OF TRADE ORDERS AND FORMS.

—o—

LIST OF OFFICIAL RECEIVERS.

THE Board of Trade have issued a number of orders and forms under the Act; but it does not appear necessary to reprint them fully. Some of them, as, for instance, those which relate to the payment into the Bank of England of funds unclaimed or undistributed under former Bankruptcy Acts, have only a temporary interest and a very indirect connection with the present Act. Others relate to administrative details connected with the action of the Board itself, but of no great interest to the public. And others, again, consist of forms for the use of the Bankruptcy officials, with which they will of course be supplied by the Board itself. It will be sufficient if we give fully such of the orders and forms as are of general interest in reference to the practice of the Act, or are intended for the use of the public as distinguished from the officials, at the same time briefly indicating the nature of the others.

On the day of the passing of the Act (25th August, 1883) the Board issued a notice requiring trustees or other persons having in their hands unclaimed or undistributed funds or dividends as mentioned in section

162 of the Bankruptcy Act, 1883, to pay the same into the Bankruptcy Estates account at the Bank of England. A circular calling attention to this notice and specially addressed to trustees under the Bankruptcy Act, 1869, in regard to proceedings conducted during any part of the period from January 1st, 1876, to January 1st, 1881, was subsequently issued by Mr. John Smith, inspector-general in Bankruptcy. Contemporaneously with, or following, this notice and circular a number of forms were issued, under which trustees are required to return an account of the funds in their hands, or to pay them into the Bank of England; under which creditors are empowered to apply for unpaid dividends; or which are required to be used in carrying out the various details of these transactions. All these orders, etc., may be regarded as relating rather to the winding up of proceedings under former Bankruptcy Acts than as bearing upon proceedings under the new Act. An order, dated on the 17th January, 1884, does, however, bear in an important manner on the proceedings under the present Act. After reciting the powers conferred upon the Board by subsection 2 (b) of section 162 of the Bankruptcy Act, to require trustees or other persons to submit accounts of unclaimed and undistributed funds or dividends; and also reciting rule 221 of the Bankruptcy Rules, 1883, (*ante*, p. 82) it provides *inter alia*:—"And in case any such trustee or other person who shall have failed to comply with the requirements of the said section (*i.e.*, section 162 of the Bankruptcy Act, 1883) shall thereafter be appointed trustee of the property of any bankrupt, the Board of Trade will object to his appointment on the ground of such noncompliance as aforesaid."

The following orders relating to the appointment of official receivers, and of the officials appointed to fill temporary vacancies are of importance, and we therefore give them verbatim :—

OFFICIAL RECEIVERS AND OFFICERS APPOINTED TO FILL
TEMPORARY VACANCIES.

List of Official Receivers.—The Board of Trade, with the concurrence of the Treasury, have ordered the appointment of one Official Receiver for the Bankruptcy District of the High Court; and have also fixed the number of Official Receivers for the Bankruptcy Districts within the jurisdiction of the County Courts as in the list annexed hereto.

London.—Mr. Robert Palmer Harding has been appointed, as from the 1st of October last, to be Chief Official Receiver and Official Receiver for the District of the High Court. The appointments of Official Receivers for County Court Districts are as in the annexed list, the appointments taking effect from this date.

Mr. Peter Paget, the Official Assignee of the London Bankruptcy Court, transferred to the Board of Trade by the above Act, has been appointed Senior Assistant Receiver to the Official Receiver for the District of the High Court; and Mr. John Clark Austin, the Messenger of the London Bankruptcy Court, transferred to the Board of Trade by the above Act, and Mr. George Wreford, have also been appointed Assistant Receivers to the Official Receiver for the District of the High Court, the appointments taking effect from this date.

Official Receivers for County Court Districts.

County Court Districts.	Name of Official Receiver.
Newcastle-on-Tyne.	Mr. A. S. Maples, solicitor, Newcastle
Durham	Mr. J. A. Longden, solicitor, Sunderland
Sunderland	
Stockton-on-Tees	Mr. J. R. Stubbs, solicitor, Middlesborough
Middlesborough	
Northallerton	Mr. H. Forder, late surveyor of taxes at Hull
Hull	
Great Grimsby	Mr. E. T. Wilkinson, York
York	Mr. W. Drawbridge, solicitor, Scarborough
Scarborough	Mr. E. L. Hough, solicitor, Carlisle
Carlisle	

County Court Districts.	Name of Official Receiver.
Cockermouth	Mr. J. Mason, solicitor, Whitehaven
Whitehaven	
Ulverstone and Barrow	Mr. H. G. Pearson, solicitor, Barrow
Kendal	
Preston	Mr. T. Edelston, solicitor, Preston
Blackburn	
Burnley	Mr. F. Gittins, chartered accountant, Liverpool
Liverpool	
Birkenhead	Mr. T. J. Ridgway, solicitor, Warrington
Wigan	
Warrington	Mr. J. D. Davies, solicitor, Llandidloes
Newtown	
Chester	Mr. W. Evans, branch manager of the North and South Wales Bank, Chester
Wrexham and Llangollen	
Bangor	Mr. T. H. Winder, solicitor, Bolton
Bolton	
Oldham	Mr. Hesketh Booth, town clerk of Oldham
Manchester	
Salford	Mr. C. J. Dibb, solicitor, Barnsley
Ashton-under-Lyne	
Macclesfield	Mr. John Brooks, solicitor, Ashton-under-Lyne
Stockport	
Hanley, Burslem, and Tunstall	Mr. A. C. Procter, Solicitor, Macclesfield
Stoke-on-Trent and Long- ton	
Nantwich and Crewe	Mr. T. Bullock, chartered accountant, Newcastle-under-Lyme
Bradford	
Huddersfield	Mr. J. A. Binns, Bradford
Halifax	
Dewsbury	Mr. John Haigh, solicitor, Huddersfield
Leeds	
Wakefield	Mr. T. England, solicitor, Halifax
Sheffield	
Barnsley	Mr. J. A. Deane, town clerk of Batley
Lincoln	
Boston	Mr. J. Bowling, solicitor, Leeds
Birmingham	
Oldbury	Mr. J. B. Ottley, solicitor, formerly of London
Coventry	
Warwick	Mr. W. J. Clegg, solicitor, Sheffield
Dudley	
Stourbridge	Mr. T. G. Dale, solicitor, Lincoln
Kidderminster	
	Mr. L. J. Sharp, chartered accountant, Birmingham
	Mr. E. T. Pierson, chartered accountant, Coventry
	Mr. E. P. Jobson, solicitor, Dudley

City Court Districts.	Name of Official Receiver.
ster . . .	Mr. C. M. Downes, late chief clerk in County Court, Worcester
hampton . . .	Mr. E. Pritchard, clerk to the Wolverhampton Union
sbury . . .	Mr. J. J. Sudbury, solicitor, Ludlow
d . . .	Mr. M. J. Seobie, solicitor, Hereford
y . . .	Mr. J. Watson, solicitor, Nottingham
ster . . .	Mr. John Smith, solicitor, Derby
rd . . .	Mr. J. G. Burgess, chartered accountant, Leicester
gham . . .	Mr. W. L. Daniel, Merthyr Tydfil
on-Trent . . .	Mr. G. H. Llewellyn, solicitor, Newport
rfield . . .	Mr. T. H. Stephens, solicitor, Cardiff
ter . . .	Mr. Thomas Thomas, Carmarthen
yr Tydfil . . .	Mr. W. Rosser, land agent, Swansea
pridd . . .	Mr. E. G. Clarke, chartered accountant, Bristol
are . . .	Mr. H. C. Tombs, solicitor, Swindon
gar . . .	Mr. C. Scott, solicitor, Gloucester
ort (Mon.) . . .	Mr. F. A. Dawes, estate agent, Salisbury
rthen . . .	Mr. Geo. Philpott, chief clerk of County Court, Taunton
oke Dock . . .	Mr. T. Andrew, high bailiff, Exeter
stwith . . .	Mr. J. Greenway, solicitor, Plymouth
ea . . .	Mr. G. A. Jenkins, solicitor, Penryn
l. . .	

County Court Districts.	Name of Official Receiver.
Norwich . . .	Mr. H. P. Gould, chartered accountant Norwich
Great Yarmouth . .	
Kings Lynn . . .	
Ipswich . . .	Mr. F. Messent, Ipswich
Bury St. Edmunds . .	
Bedford . . .	Mr. W. G. C. Mitchell, solicitor, Bedford
Northampton . . .	
Cambridge . . .	Mr. J. Ellison, solicitor, Cambridge
Peterborough . . .	
Oxford . . .	
Aylesbury . . .	Mr. G. Mallam, solicitor, Oxford.
Banbury . . .	
Luton . . .	
Hertford . . .	Mr. A. Ewen, solicitor, Luton
St. Albans . . .	
Chelmsford . . .	Mr. C. Godfrey, high bailiff of Chelmsford and Colchester
Colchester . . .	
Greenwich . . .	Mr. Cecil Mercer, solicitor
Wandsworth . . .	
Croydon . . .	
Reading . . .	Mr. Cecil Mercer, solicitor
Newbury . . .	
Windsor . . .	
Kingston-on-Thames . .	Mr. Allen H. P. Stoneham, chartered accountant, of the firm of Moult Goddard & Co
Guildford and Godalming . .	
Barnet . . .	
Edmonton . . .	Mr. R. Prall, town clerk of Rochester
Brentford . . .	
Rochester . . .	
Maidstone . . .	Mr. L. Creery, solicitor, Ashford
Canterbury . . .	
Brighton . . .	Mr. A. Mackintosh, The Downs, Wigan
Hastings . . .	
Lewes . . .	
Tunbridge Wells . . .	Mr. J. C. Moberly, solicitor, Southampton
Southampton . . .	
Winchester . . .	
Portsmouth . . .	Mr. S. Wheeler, chartered accountant Newport, Isle of Wight
Newport and Ryde . . .	

Temporary Vacancies.

Whereas by section 67 (sub-section 1) of the Bankruptcy Act,

enacted that the Board of Trade may from time to time by Order act that any of its officers mentioned in the Order shall be capable discharging the duties of any Official Receiver during any temporary vacancy in the office, or during the temporary absence of any Official Receiver through illness or otherwise.

Now, it is ordered, and the Board of Trade do hereby direct, that following persons, being officers of the said Board (that is to say:—

Robert Giffen, Esq. ;

Allen Stoneham, Esq. ;

John Smith, Esq., Inspector-General in Bankruptcy ;

Robert Palmer Harding, Esq., Chief Official Receiver ;

Christopher Jenkins Dibb, Esq., Official Receiver, Manchester ;

Frederick Gittins, Esq., Official Receiver, Liverpool ;

Luke Jesson Sharp, Esq., Official Receiver, Birmingham ;

Edward Gustavus Clarke, Esq., Official Receiver, Bristol ;

Arthur Stewart Maples, Esq., Official Receiver, Newcastle ;

Cecil Mercer, Esq., Official Receiver for Greenwich and other districts ;

Alexander Mackintosh, Esq., Official Receiver for Brighton and other districts ;

be severally and respectively be capable of discharging the duties of Official Receiver during any temporary vacancy in the office, or during the temporary absence of any Official Receiver through illness or otherwise.

Dated the 3rd day of January, 1884.

(Signed) J. CHAMBERLAIN,
President of the Board of Trade.

An order dated January 2, 1884, recites the resignation of Mr. Mansfield Parkyns, the Comptroller of Bankruptcy under the Bankruptcy Act, 1869, and appoints Mr. Robert Giffin one of the assistant secretaries of the Board to perform the necessary duties of the office—that is, to wind up the business of the Comptroller still remaining outstanding under the Act of 1869.

It is not necessary to give the forms which are to be used or filled up solely by the official receivers as these officers will of course be supplied with them by the Board of Trade. The following forms are, however, to

be used or filled up by the debtor or the trustee, and we therefore give them :—

Form of Cash Book to be kept by Official Receiver or Trustee.

RECEIPTS.

Date.	Particulars.	Total.	Drawn from Bank.	Debts Collected.	Property Realized.	Receipts from Securities held by Creditors.	Other Receipts.

PAYMENTS.

Date.	Particulars.	Voucher Nos. (in red).	Total.	Paid into Bank.	Costs up to Receiving Order.	Court Fees, Stamps, &c.	Law and other Taxed Charges after receiving Order (exclusive of Court Fees).

PAYMENTS (continued).

Trustees' Remuneration.	Incidental Expenses.	Debtor's Allowance.	Preferential Creditors.	Dividends paid.	Payments to redeem Securities.	Other Payments.

Questions to Debtor Supplementing Statement of Affairs.

In the County Court of _____
 holden at _____
 No _____ of 1884
 In Bankruptcy.
 Re _____

NOTICE.

The following questions must so far as applicable be answered by the debtor, and he is required to attend forthwith at the office of the Official Receiver for that purpose.

(All answers must be numbered to correspond with the numbers of the questions, and when the space is insufficient to answer any question fully, the answer may be endorsed on the back).

Questions	Answers.
1. What is your full name?	
2. At what place or places have you carried on business during the last six years?	
3. Where have you resided during the same period?	
4. What has been your occupation?	
5. When did you commence business?	
6. What capital had you at that time [or on 1st of January, 1881]?	
7. Have you ever been in partnership with any one? If so, state with whom, and if partnership dissolved. When did the dissolution take place? Under what circumstances, and what were the terms? What liabilities (if any) are you now under in respect thereof?	
8. What books of account have you kept, and where are they?	
9. To what date are they posted?	

Questions.	Answers.
10. What money had you in hand or at your bankers at the date of the petition?	
11. Have you any bills of exchange, promissory notes, or other negotiable securities, belonging to your estate?	
12. Have you produced to, or delivered up to the official receiver, or to his officer, all moneys, negotiable securities, bonds, deeds, and other property belonging to your estate and under your control, and which are capable of delivery?	
13. State shortly the nature of the assets of your estate, which will be available towards the payment of your debts, and the amount which you believe will be realized from such assets?	
14. Have you any property in reversion, remainder, or expectancy?	
15. Is your life insured? If so, in what office or offices? State dates, amounts, and annual premiums of policies. Are the policies in your possession? If not, where are they deposited, and under what circumstances?	
16. Have you any lease of your premises? If so, when was it granted? For what term? At what rent? What is the actual rack-rent value of the premises? Where is the lease?	
17. Are your premises insured against fire? If so, in what office? For what amount? Where is the policy?	
18. Have you underlet any premises or portion of premises of which you are tenant or lessee? If so, state particulars.	
19. What is the nature of your stock-in-trade? Is it insured against fire? If so, in what office? And for what amount? Where is the policy?	

Questions.	Answers.
<p>Have you any other assets beyond those you have already mentioned?</p> <p>Is any rent, rate or tax due in respect of the premises occupied by you? If so, state amount and the date at which the same became payable .</p> <p>What do you believe to be the total amount of your indebtedness? .</p> <p>Is there any judgment against you in respect of any matter? If so, state particulars, and whether execution has issued, or the judgment creditor is in a position to issue execution. Are there any proceedings against you pending in any Court, with the exception of those under the present receiving order? If so, state particulars .</p> <p>Have you hypothecated any bills of lading, dock warrants, or other securities of any kind? If so, state particulars .</p> <p>Have you mortgaged, assigned or created any charge on any property? If so, state particulars .</p> <p>Have you executed any bill of sale upon your stock-in-trade, furniture, or other personal effects? If so, state particulars, date of bill of sale, and whether registered or not</p> <p>Have you within the last three months given any charge on your property or made any special or preferential payments to any creditors? If so, state names and amounts paid .</p> <p>Have you, within the last twelve months, pledged any property? If so, state particulars of such property, the date when pledged, the amount obtained, and how disposed of. Where are the pledge tickets? What did the pledged property cost, and what do you believe to be its present value? Has the pledged property been paid for? If so, when? If not, state the name of</p>	

Questions.	Answers.
<p>the creditor from whom it was obtained?</p> <p>29. When did you suspend payment of your debts?</p> <p>30. Have you paid to, or deposited with your solicitor or agent, any sum of money or security for payment of the costs incurred, or to be incurred, in respect of your failure? If so, state particulars and amount</p> <p>31. Has any meeting of your creditors been held since you suspended payment? If so, was any statement of your affairs presented to such meeting, and where is it?</p> <p>32. State the cause or causes of your insolvency?</p> <p>33. When did you first become aware that you were insolvent?</p> <p>34. Have you contracted any debts since you became aware of your insolvency? If so, what expectation had you of being able to pay such debts?</p> <p>35. Have you within the last three years prepared any statement of your affairs? If so, at what dates and what results did the statement show?</p> <p>36. Where are the statements?</p> <p>37. When did you last take stock? Where is the stock account?</p> <p>38. Are you aware of having committed any act of bankruptcy prior to that on which the receiving order against you was made? If so, state act and date</p> <p>39. Have you within the last twelve months incurred any losses other than losses in trade? If so, state particulars and date</p> <p>40. Have you drawn or accepted or endorsed any accommodation bills? If any such bills are now running, state particulars</p> <p>41. Have you any accounts showing your</p>	

Questions.	Answers.
<p>income and your household and personal expenditure during the last three years? . . .</p> <p>What has been about the amount of your income during that period? .</p> <p>What has been about the annual amount of your household and personal expenditure during that period? . . .</p> <p>Have you made any marriage or post-nuptial settlement, or any other settlement of property within the last ten years? If so, state date, particulars, names of trustees, and of the persons taking any benefit thereunder . . .</p> <p>In the case of such a settlement (if any), have you evidence that, at the time of making it, you were able to pay all your debts without the aid of the property thereby settled? . . .</p> <p>Was any statement of your affairs prepared at the date of such settlement, and if so, where is it? .</p> <p>Who holds the deed or deeds of settlement, and can you produce a copy or copies? . . .</p> <p>Have you now disclosed the whole of your estate and effects? . . .</p> <p>Have you previously been bankrupt or insolvent or made any assignment for the benefit of your creditors, or any statutory or other arrangement or composition? If so, state the date, the amount of the dividend paid, and whether you obtained a release or discharge . . .</p> <p>Is it your intention to make any proposal to your creditors for the satisfaction of your indebtedness either by a composition, or scheme of arrangement or otherwise? . . .</p> <p>Can you state the nature and terms of proposal you intend to make? .</p>	

The foregoing answers are, to the best of my knowledge, information and belief correct.

(Signed)

The above-named Debtor.

Witness.

Summary of Statement of Affairs. Schedule 1 (3).

In the County Court of _____

holden at _____

No. _____ of 188 .

In Bankruptcy,

Re _____

Summary of Debtor's Statement of Affairs.

LIABILITIES.

Dr.

To creditors unsecured
 „ „ partly secured
 „ other liabilities
 „ liabilities on bills other than debtor's own
 acceptances

£

ASSETS.

Cr.

By cash in hand and at bank
 „ book debts—good
 „ „ doubtful and bad £
 estimated to produce
 „ stock in trade
 „ furniture
 „ bills of exchange, &c.
 „ other property
 „ surplus from property held by creditors

£

Less: preferential creditors, for rent, rates,
 taxes, wages, &c.

£

Alleged causes of failure.

Official Receiver's observations, if any.

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